Supreme Court, U.S.
FILED

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NO. _____

SUPREME COURT of the UNITED STATES

DEBORAH KAY HENDRIX, et al.
Petitioners,
v.

WALLACE COFFEY, et al.
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT
No. 08-6161
Before KELLY, PORFILIO, and O'BRIEN

(D.C. No. 5:08-CV-00605-M) nature of suit:
(440 Civil Rights)

PETITION for WRIT CERTIORARI

THE PETITIONERS are:

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QUESTIONS PRESENTED FOR REVIEW

Did the lower courts inadvertently, or by mistake, or by reasons, be unconstitutional, deny to us *pro se* petitioners proceeding under FRPC Rule 8 for reason of our necessitous circumstances civil rights to due process and equal protection under the laws, treaties, and civil rights statutes, of the United States, perhaps on theory racist manifest destiny, long discarded to which petitioners are legally exempt, and said denial condones unfettered oppression and unconstitutional actions by respondents, that are illegal under federal statutes, but ignored in the lower courts because of the doctrines or decisions in Santa Clara Pueblo v. Martinez, 436 U. S. 49. 72 (1978) and an anachronistic Cherokee Indian Territory case decided prior to the termination of the territory and prior to Oklahoma statehood there, called Talton v. Mayes, 161 U. S. 376, 384 (1896), neither of which involved us U. S. Citizen Comanche petitioners here, or our tribal treaties to which we are successors in interest. The crimes mentioned in Section 9, of the Indian Appropriation Act (Ind. T.) of March 3rd, 1885, 18 USCA ss 1151, 1153, 3242, giving territorial courts jurisdiction are for murder, manslaughter, rape, assault with intent to kill, arson, burglary, and larceny. Talton v. Mayes does not comport to the Thirteenth Amendments' affirmance of statutory prohibitions against deprivations of rights because of race or previous conditions of servitude accorded all citizens under Civil Rights of 1866. 42 U. S. C. a. sec. 1982. 28 USCA. sect. 1343(4), et seg. but Mayes is often cited by those whom want the Court to hold that Indian citizens of today cannot be said to have constitutional guarantees to due process and equal protection under the laws, and have no constitutional guarantees. We

disagree and rely on what Congress has said under 8 U. S. C. 1401(b) in the exercise of their plenary authority (LoneWolf v. Hitchcock, 187 U. S. 553 (1903), and authority of Congress to provide Civil Rights under USCA Constitutional Amendment 13 to require civil rights statutes applicable to Comanche Indian citizens the same as to citizens of any other race and to nullify any other legal fiction invented to allow discrimination. That is, not only in housing matters and racist discrimination here, but also in all subject matters in which a white person has civil rights, so do we. Is this what Congressional purpose under the Thirteenth Amendment is for or what? Rights preserved by the founders of American Constitutional Law, the canons of interpretation of federal law about Indians, is being assaulted from every direction and the field in its entirety is now in its entire subject matter fast generating its own unfettered schizophrenic prolixity revolving about individual greed and corruption bolstered by Santa Clara Pueblo v. Martinez and Talton v. Mayes, as a shield. The 638 Self-determination 25 UCS 450 tribal structures which deny due process and equal protection under the law embrace a two edged sword where the energy for the sword comes from is not quite clear. Due process and equal protection under the law is basic to survival of every self-government entity in America. Tribal assisted governments, with sovereign roots, however, must look to the sovereign United States and federal preemption as preemption extends to tribal, state and local governments for their protection now and in the future. The Indian people have one thing going for them. The willingness of Congress to deal with them as Citizens of the United States with reserved rights to share in

all tribal and other property. Org. Act. June 2, 1924, 8 USC 1401(b).

LIST OF PARTIES

Hendrix et al v. Coffee et al

Petitioners:
Deborah Kay Hendrix, Represented by self, pro se
Angie A. Revell, Represented by self, pro se
Phillip J. Hendrix III, Represented by self, pro Se
Phyllis A. Attocknie, Represented by self, pro se

Respondents:	**Represented by:**
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Ron RedElk	
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2. U.S. District Court for the Western District of Oklahoma, Order, July 10, 2008, Honorable Vicki Miles LaGrange, U.S. District Judge.

3. U. S. Department of Interior, Bureau of Indian Affairs, Anadarko Agency, "Relinquishment" document, December 11, 1975.

4. U. S. Department of the Interior, Bureau of Indian Affairs, Anadarko Area Office, Notification of Deborah Hendrix's Enrollment Comanche Indian Tribe of Oklahoma, Roll No. CO4568 (2/5/1976), May 26, 1976.

5. HUD Corporation Warranty Deed issued to Deborah Wells Roberts by Housing Authority of the Caddo Indian Tribe of Oklahoma, public body, corporate, and politic, of Caddo County, State of Oklahoma. April 7, 1993

6. Caddo Tribe Relinquishment letter to Angie Revell and Phillip Hendrix III. February 18, 1994.

7. Letter of membership to Angie Revell from the Comanche Tribe. February 8, 1994.

8. Letter of membership to Phillip Hendrix III from the Comanche Tribe. February 8, 1994.

9. Minutes of the Comanche Business Committee Meeting of April 17, 2008 disenrollment action of Deborah Hendrix, Phillip Hendrix III and Angie Revell.

10. Resolution by the Comanche Business Committee to disenroll Deborah Hendrix as a Member of the Comanche Nation, April 17, 2008.

11. Resolution disenrolling Angie Revell and Phillip Hendrix III. April 17, 2008

12. Letter from Caddo Tribe stating Deborah Hendrix was never on the Caddo Role.

13. Bureau of Indian Affairs, Southern Plains Regional Office letter regarding Deborah Hendrix of action taken by the Comanche Tribe.

14. Response from Hobbs, Straus, Dean & Walker regarding the B.I.A. letter.

15. Declaration by Donna Wahnee, Enrollment Director, June 24, 2008

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STATEMENT OF JURISDICTION

U.S. Civil Rights Act of 1866, 42 U.S.C. 1982, 28 U.S.C. 1343 (4); U.S.C.A. Jones v. Meyer, 392 U.S. 409 (1968) Constitutional Amendment 13, Sec. 2, et seq. Any other Federal Civil Rights Statue which may be in para material or inter alia – from the Reconstruction Acts to present that affords jurisdiction

TREATIES and AGREEMENTS

Treaties of Medicine Lodge with the Kiowa, Comanche and Apache Indians, of October 21, 1867 (15 Stat. L. 581) Ratified July, 25, 1868 and Proclaims August 25, 1868; et seg, 15 Stat 581, 589; and Act of June 6, 1800 (31 Stat. at Large 677, Chap. 813) dealing with the disposition of the lands, lives and liberty of the Kiowa, Comanche and Apache people, the subject of the "Good Faith, Plenary powers of Congress" case decided January 5, 1903 case No. 275, LoneWolf v. Hitchcock, 167 U.S. 553, 23 S. Ct, 216, 47 L. Ed. 299; 187 U.S. 553 (1903), cited passim through this case, as to the force, scope, and intent of Sec. 6, of the Medicine Lodge Treaty, et seg. Passim

STATEMENT OF THE CASE

Document shows violation of Civil rights Act of 1866 by respondents 42 USC 1982, 28 USC 1343 (4).

Statement by Donna Wahnee, Comanche tribal employee working under a federal grant program in aid to the tribal Enrollment Department. The Statement was developed by respondents, and was a conspiracy of deprivation of the right of Deborah Kay Hendrix, her children and other relatives and was done with the participation of respondents named, members of the law firm respondent and the Chairman of the Tribal Business Committee and was absolutely for purposes of harassment and unlawful damages to the petitioners, especially Deborah kay Hendrix. Said statement was false information, replete with perjury and should not have been pursued as true or correct by the defendants law firm Hobbs, Straus, Dean & Walker and their lawyer employees should have not promoted the false statement and should not have filed it before the U.S. District Court, and Circuit Court of Appeals.

ARGUMENT

This petition entails the Governments obligations under Section 6, of the Treaty of Medicine Lodge entered into with the Kiowa, Comanche and Apache Indians under date of October 21,1867 (15 Stat.581), Ratified, July 25, 1868., and Proclaimed August 25, 1868. That is, the obligations under Section 6, still remains in force as a federal operation; therefore, should it be meaningful and constitutionally enforced to provide, at the very least, due process and equal protection under the law for civil rights protection for every citizen, regardless of race or previous conditions of servitude, if entitled in America. Is it not a racist convention to hold that a Comanche born within the territorial limits of the United States not equally entitled Citizens assuming that they are. See; Indian Citizenship: 8 USC, 1401 (b). Act of June 2, 1924, (43 Stat 253). Civil Rights Act of 1866, 42 USC 1982, USCA Jones v. Meyers, 392 U. S. 409, 88 S. Ct. 2186, 1 Empl, Prac. Dec. P 9832, 20, L.Ed 2d 1189, 470.0. 2d, 43. Corpus Juris Secundum: Civil Rights, Property Rights - Housing Discrimination, Cause of Action for Racial discrimination, violations of 3604 (a) Federal Housing Act [42 USC.A. 3601 et seg.] and Civil Rights Act of 1866 [42 U.S.C.A. 1982. 28 U.S.C.A, 1343 (4); 42 USCA, sect. 1982 USCA. Constitutional Amendment Thirteen: Mr. Justice Stewart delivered the opinion of the Court in Jones v. Meyers, supra. In small part, he wrote: Yet "In this case we are called upon to determine the scope and constitutionality of an Act of Congress, 42 U. S. C. s 1982 which provides that: • All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase,

lease, sell, hold, and convey real and personal property.

Yet, petitioners, Comanche Indians must ask: Are the Comanche's CITIZENS entitled to rights and immunities secured under Civil Rights statutes such as the Act of 1866 (property rights and fair housing) USCA Jones v. Meyers, 392 U. S. 409 (1968) re: Congressional authority under the Thirteenth Amendment to remove discrimination to protect such citizens in the exercise of their civil rights from injury, are Comanche citizens entitled to protection from other citizens from intimidation, or interference either by private individuals or by public officials that for reasons of race, color, tribe or religion or for having participated in any federal or federally assisted program or, where found federal action or prosecution is in the public interest to secure substantial justice; is the Thirteenth Amendment applicable to all persons and not just to those acting under color of law. Are all or any Civil Rights Laws applicable to Comanche's, or is Civil Rights statutes of the United States simply not applicable to the Comanche Indian citizens of the United States. Is the U. S. Constitution and Bill of Rights applicable to the Comanche Indian citizens of today, or do they have no right to civil rights or equal protection under the law, for protection reserved rights under 8 U. S. C.1401 (b), no other citizens but Indian citizens can have. Is an Indian citizen rights per Bill of Rights a thing any entity may ignore in their dealings with the Comanche Indians. Is wide spread lawyers joker prolixity now rampant on trust "Indian Country today", expounding Santa Clara Pueblo v. Martinez and Talton v. Mayes, supra, as used in support of crookedness and nonexistent recusable obligation based upon sixteenth century ignorance of nations of

pirates sailing the seas looking for something to plunder from free persons. The petitioners seek nothing but protection due under the Supreme law of this land. Section 6. of the Treaty of Medicine Lodge (15 Stat. 581) plainly reads in its pertinent part: *** "The United States may pass such laws on the subject of alienation and descent of property, and on all subjects connected with the government of the Indians on said reservation, and the internal police thereof as may be thought proper." See: supra. The manner in which the 6th section is operative is ongoing, and benefits are still being provided by the United States under said Treaty of Medicine Lodge to the KCA Indians to which petitioners are entitled under federal laws. To the same extent, all Comanche's are in the same boat with respect any and all tribal and federal entitlements whatsoever as Comanche's. None should be considered entitled to operate like AlaiBaba and forty thieves of Bagdad to the detriment of rights of other citizens, Comanche or not. Civil Rights are not enacted to be evaded, are they?

Against this backdrop, petitioners have shown the courts below that respondents, by their own minutes of their actions, acted in violation of petitioner Deborah K. Hendrix civil rights, conspiring with each other and with their lawyers Burson, Norman, KickingBird and others to create by corrupt and evil acts a document of absolute falsehoods against the petitioner Deborah Hendrix which alleged that she was in violation of the law, was not Comanche but enrolled in the Caddo Tribe (A bald faced lie) and had received tribal payments other lies, and a tribal house from the Caddo tribe illegally. The respondents, aided by non-Indian lawyers violating federal statutes in their conspiracy,

for evil, violating federal laws, they purposely submitted the false information by document to the District Court and alleged Deborah Hendrix was "double-dipping" Comanche illegally, a lie perjured and therefore was removed from the Comanche tribe with her children and other members of her family. The perjured document was later submitted to the court of Appeals by the respondents and their attorneys. In truth said lawyers are illegally paid from tribal funds to perform illegal acts against tribesmen without the permission of the General Council, which is a violation of law and bar codes, of states and affects the federal trust relationship with the Comanche's

The B.I.A. agrees that Deborah Kay Hendrix was never enrolled in the Caddo tribe, although her mother was Caddo. Deborah K. Hendrix was enrolled in the Comanche tribe by her father Charles Wells, son of Otto Wells, an original Comanche full blood allottee on the same government census roll, base roll, with Comanche Chief Quanah Parker. Historical (base roll) stems from the original allottees government census rolls developed by the government for the Kiowa, Comanche and Apache confederated tribes under authority of Section 6, of the Treaty of Medicine lodge of 1867 (15 Stat 581), 25 USC 2 and other federal jurisdictions. Deborah Kay Hendrix was an enrolled Comanche all her life and her enrollments were signed by the Kiowa, Comanche and Apache head committee members as authorized by the confederated tribes and U. S. Government.

Deborah K. Hendrix was already on the base roll approved for the Comanche Indians by the government when the tribes were finally approved for organization separately in 1976 after a period

with no tribal council following a meeting of less than a hundred individuals that claimed to be the three tribes "General Council" at a meeting place where a council had been scheduled but called off due to inclement weather. The displeased also alleged to have recalled the three-tribe treaty confederated constitution and the BIA allowed they had terminated themselves and had no representation, per John O. Crow, (BIM, BIA, and 001.) and no council. Such termination policy is alleged to have been terminated by the Nixon administration.

Being on the separate Comanche tribal roll, Deborah Hendrix decided to run for tribal Secretary/treasurer. Her ticket was she would investigate for graft and corruption and report to the General council. She was nominated in General council, accepted and placed on the ballot for the next election.

Her harassment has been documented and in part captured on the minutes of respondents. Deborah Hendrix made copies available to the court along with respondents filing of the falsified document which alleged she was a "double-dipping enrolled Caddo Indian," to be banished from the Comanche tribe because she participated in a HUD mutual self help state/county entity housing authority program under the U.S. 1937 Housing Act, for Indians and others. Tribes in Oklahoma that operated the programs under the laws of the State and county using HUD federal funding made housing available to any qualified Indian of any tribe, so as a means of illegal harassment the respondents alleged she was subject to be booted out of the Comanche tribe, and her name removed from the ballot The perjured letter developed against Hendrix was widely publicized by the respondents, as truth, in an illegal

invasion of her privacy. Their letter, signed by Donna Wahnee, a tribal employee, was submitted to the U. S. District Court and U. S. Court of Appeals by respondents with allegations that the Bureau of Indian Affairs had participated "in the Deborah Hendrix 'investigation' for wrong doing, double dipping in housing and double enrollment." None of which was true. B.I.A. has not sanctioned the illegal treatment of Deborah Kay Hendrix by the Comanche respondents and their attorneys. But said it was illegal and without tribal authority. Neither has BIA sanctioned respondents open public disparagement holding Deborah Hendrix up to ridicule, obloquy and illegal invasion of her right to privacy or the retaliation against her by respondents, erroneously by said tribal committee "acting without lawful authority or authorization. B.I.A. disagreed that participation in a HUD state housing program violated any tribal authority or any program conducted by Caddo Indians for all eligible Indians or others such as Roberts, her former husband, a white man. It is obvious that respondents have illegally violated Deborah Hendrix Civil rights and constitutional rights to due process and equal protection and illegally invaded Deborah Hendrix's privacy under the law. Petitioners allege it is unconstitutional to deny them equal protection under the civil rights to a lawful remedy under federal jurisdiction, there are (no Comanche courts,) and federal authority preempts state and local jurisdiction and no alternative jurisdiction exists in the universe other than self-defense, which civilized persons refuse to resort to. Petitioners believe they are entitled to extraordinary remedy where the ordinary fails and that they in their necessitous circumstances should not be required to bear the full

burden to secure constitutional guarantees and civil rights, to life, liberty and property. Under any application of the United States Constitution, there cannot be denied basic guarantees,' because of race or otherwise, if available to any other citizen, regardless of race or previous conditions of servitude. Citizens have civil rights to protection to citizenship rights. Afroyim v. Rusk, 387 U. S. 253 (1967); Act of June 2, 1924 (43 Stat.253) 8 USC1401 (b), alleged passim this case. The facts are: Indian citizens are entitled U.S. Constitutional guarantees to the same extent, force, scope and effect any citizen can be, regardless of race, color, circumstance or previous conditions of political policy, as evolved under LoneWolf v. Hitchcock, 187 U. S. 553 (1903). Petitioners are entitled to constitutional protection In good faith. 187 U. S. 553 (1903); Section 6, Treaty of Medicine Lodge, supra, as affect Comanche citizens.

Santa Clara Pueblo v. Martinez supra, makes respondents sovereign, and untouchable, and they did so for reason they are crooked and fear exposure. Petitioners urge they are to be protected under the 6th section of the Treaty of Medicine Lodge by the United States Government. That such is the true intent of Congress. See; LoneWolf v. Hitchcock, 187 U. S. 553, alleged passim, and the Act of June 2, 1924 (43 Stat, 253) 8 U. S. Code 1401 (b) and their U. S. Citizenship rights under the KCA allotment schedule under the Act of June 6, 1900. The subject matter of LoneWolf v. Hitchock, supra, acquired. passim.

SUMMARY

There are issues beyond the particular facts and parties involved with reference the oppression to which the Kiowa, Comanche and Apache Indians are yet subjected that runs to other tribes and vitiates against the powers and authority of Congress to give relief, inasmuch as conflicting governmental powers decline to construe the Indian Citizenship status, as deserving of protection under the power of Congress as provided.

Congress has acted to grant Comanche citizens their rights to due process and equal protection under the laws in accord their good faith. the Court found to exist in their decision in LoneWolf v. Hitchcock, 187 U.S. 553 (1903). The lack of civil rights protection for Comanche Indians is due to an old Cherokee Indian Territory case (Talton v. Mayes, 161 U. S. 375, 384 (1896), dealing with Cherokee Territory inhabitants before termination of the territory and before Oklahoma statehood and most likely, prior to the American citizenship of the players. The old case is given new life due to the decision in Santa Clara Pueblo v. Martinez, 436 U. S. 49,72 (1978) and the wildfire like spread of unconstitutional prolixity which deny Indian citizens have Constitutional guarantees and civil rights protections all other citizens but Indian citizens enjoy in America. Federal law about Indians is now steeped in schizophrenic prolixity, denies Civil Rights to due process and equal protection under the law to American Indian citizens and denies the authority of Congress; they have under U. S. Const. Amend. Thirteen section 2, to legislate meaningful civil rights protection for Comanche and other Indians. for which their forebears have dearly paid with more than one hundred twenty millions of acres

of land for the benefit of the forebears of non-Indian Americans, See: The Treaty of Medicine Lodge with the Kiowa, Comanche and Apache Indians of 1867, concluded on the 21 Day of October. 1867 (15 Stat. 581)! Ratified July 25. 1868, and Proclaimed August 25, 1868.

The Treaty of Medicine Lodge, supra, is still in effect and operation. Section 6 thereof reads: CI. 3.," *** The United States may pass such laws on the subject of alienation and descent of property, and on all subjects connected with the government of the Indians on said reservation, and the internal police thereof as may be thought proper."

Thus, federal jurisdiction under the plenary control of Congress has preempted both tribal and state jurisdiction and the KCA Indians were induced to take up home sites as farms and grazing operations, individually owned but the lands were still held in common by the tribes under the treaty of 1867 until the 6th day in June, 1900 when Congress enacted an Act to create individual ownership of allotments in severalty for all KCA Indians (31 Statutes at Large, 677, chapter 813) and dealing with the dispositions the tribal property. The Congressional authority, plenary power, and right to do so was affirmed by the U. S. Supreme Court in LoneWolf v. Hitchcock, 187 U. S. 553, 23 S, Ct. 216, 47 L. Ed. 299 (1903).

What the Congress had undertaken was the civilization and trusteeship care of the KCA Indians and their resources, and the plan for their civilization, safety, and protection promised by the treaty is still operative and under all of the allotment legislation applied, looking towards citizenship for the KCA Indians, the clause that the Citizen Indians would retain their rights to share in

all tribal and other property. The Congressional rule of finality for the Naturalization and Citizenship for all Indians was provided under the Act of June 2, 1924 (43 Stat. 253) codified at 8 U. S. Code 1401(b) provided that "All Indians born within the Territorial limits of the United are hereby declared to be United States Citizens" and the act expressly "reserved to the Indians their rights to share in all tribal and other property."

For the KCA Indians, the "other property" clause in the said citizenship act includes the rights to public land allotments under such statutes which had the effect of taking KCA lands and can be read at 25 U. S. Code - Indians -sections 334,336,345-346,28 USC 1353, 8 USC 1401(b), and references in 43 CFR, formerly 2212. The programs established by Congress for the KCA Indians for their financial, educational and health assistance, BIA supervision of matters such as land management, leasing, sale or other land disposition, internal police and other assistance continues according to law.

Santa Clara Pueblo v. Martinez, supra and Talton v. Mayes, supra has created a federally required judicial determination aimed at reversing the past 1934 national Indian policy of respect for Indian rights similar to the earlier policy and later termination policy under a policy of displacement of Indian Citizenship rights for regression to deprivation of constitutional protections of the rights of Indians. Even the prolixity of such racial restrictions are now closely akin to what Felix Cohen called the 1953 termination policy:"Like the miners canary, the Indians have entered a political atmosphere of poison gas, similar to the treatment of Jews in

prewar Nazi Germany." Cohen, F., Yale Law Review 1953, Erosion of Indian Rights, a Study in Bureaucracy.

This is not a matter of labels, but is certainly a matter that the Court should consider in this case for reason the lack of jurisdiction in the lower Courts is because they cannot overrule the Court of Last Resorts, and both tribal and State courts are preempted by Congress. Moreover, Santa Clara Pueblo v. Martinez, supra, has done the Indian people much damage and much more than any advantage since it tends to support lawlessness and illegal actions by crooked tribal officials and their attorneys leaving the Indians without remedy, and without protection for deprivation of rights. Congress enacted the Indian Civil Rights Act of 1968, in an attempt to prohibit such illegal actions by those elected for short times, but who will disenfranchise tribal members if they complain. It is assumed that Congress had authority and plenary power as they had in LoneWolf v. Hitchcock, supra, and in line with the Thirteenth Amendment, section 2, to provide civil rights laws to enforce racial discrimination of all kinds and varieties. At least, the original Civil Rights Act of 1866, 42 U. S. C.A, See, 1982, 28 U. S. C.A Sec.1343(4), 1343(a) would apply to all, equally, if it applied to white persons, to prevent discrimination in housing, right to purchase, own, lease sell, hold and convey real and personal property.

In this case, it is alleged that Deborah Kay Hendrix was subject to be disenfranchised from the Comanche tribal membership on account she had participated in a United States HUD financed housing program and not one operated by the Comanche tribe for various Indians of any tribe

living in the Comanche county area or within the old KCA Indian reservation. Indians of the Kiowa, Comanche, Choctaw, Chickasaw, and other tribes had used the Comanche program to buy mutual help low income or moderate-income program homes. The other tribes in the area had some Comanche homeowner participants and Deborah Kay Hendrix was one of them. The facade, however, was to disenfranchise Hendrix and her family. The jurisdiction statements of Hendrix sought jurisdiction under any civil rights Act in para materia interalia or alone but was denied for reason she was a Comanche Indian and one of the things she suffered was disenfranchisement. More than that, the government of the USA needs to revisit Santa Clara Pueblo v. Martinez, supra. Especially for reason the disenfranchisement of a Comanche Indian is a very serious matter that should not be embraced by the USA under any condition that flees in the face of Congressional action taken in their dealings with the Comanche people since the Treaty of Medicine lodge is still a part of the Supreme law of the land. To allow the farce under federal law about Indians, at this late date in Congressional dealings with the Comanche people serves no useful purpose whatsoever unless we think the Indian citizens should be terminated of their Indian rights regardless of Congress and what Congress has proven they are about. It is not right for courts of justice to take such a position. Indian affairs are turning schizophrenic.

Respectfully Submitted,

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APPENDIX

1. U. S. Court of Appeals for the Tenth Circuit, Order and Judgment, Honorable John C. Porfilio, Circuit Judge. December 15, 2008.
2. U. S. District Court for the Western District of Oklahoma, Order, July 10, 2008, Honorable Vicki Miles LaGrange, U. S. District Judge.
3. U. S. Department of the Interior, Bureau of Indian Affairs, Anadarko Agency, "Relinquishment" document December 11, 1975.
4. U. S. Department of the Interior, Bureau of Indian Affairs, Anadarko Area Office, Notification of Deborah Hendrix's Enrollment Comanche Indian Tribe of Oklahoma, Roll No. CO4568 (2/5/1976), May 26, 1976.
5. Corporation Warranty Deed issued to Deborah Wells Roberts by Housing Authority of the Caddo Indian Tribe of Oklahoma, public body, corporate, and politic, of Caddo County, State of Oklahoma, April 7, 1993.
6. Letter's issued to Plaintiffs Angie Annette Hendrix and Phillip Jesse Hendrix III, regarding "Relinquished" status as members of Caddo Indian Tribe of Oklahoma, February 18, 1994.
7. Notification letter to Angie A. Hendrix regarding her membership into the Comanche Nation, February 8, 1994.

8. Notification letter to Phillip J. Hendrix III regarding his membership into the Comanche Nation, February 8, 1994.
9. Minutes of Comanche Business Committee meeting of April 17, 2008 disenrollment action of Deborah Hendrix, Phillip Hendrix III and Angie revel.
10. Resolution by Comanche Business Committee to disenroll Deborah Hendrix as a member of the Comanche Nation, April 17, 2008.
11. Resolution by Comanche Business Committee to disenroll Angie Hendrix and Phillip Hendrix III as a member of the Comanche Nation, April 17, 2008.
12. Letter from the Caddo Nation of Oklahoma regarding non-enrollment status of Deborah Hendrix with the Caddo Nation, April 18, 2008.
13. U. S. Department of the Interior, Bureau of Indian Affairs, Southern Plains Regional Office letter regarding their position regarding disenrollment of Deborah Hendrix from the Comanche Nation, May 27, 2008.
14. Response letter from the law firm of Hobbs, Straus, Dean & Walker, June 9, 2008.
15. Declaration of Defendant Donna Wahnee, June 24, 2008.
16. U. S. Department of the Interior, Bureau of Indian Affairs, Anadarko Agency letter's certifying Deborah Hendrix. Phillip Hendrix III and Angie Revell area recognized member of the Comanche Nation, September 5, 2008.

Filed
United States of Appeals
Tenth Circuit
December 15, 2008
Elizabeth A. Shumaker
Court Clerk

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

DEBORAH K. HENDRIX; ANGIE REVELL; PHILIP HENDRIX, III; PHYLLIS A TTOCKNIE,

Plaintiffs- Appellants,

v.

No. 08-616
(D.C. No. 5:08-CV-00605-M)
(W.D. Okla.)

WALLACE COFFEY, RONALD REDELK, EDDIE MAHSEET, LANNY ASEPERMY, JANICE BIGBEE, individually, as citizens of the United States and State of Oklahoma, and as members of the Comanche Business Committee; DONNA WAHNEE, individually, Tribal Enrollment Director, as a citizen of the United States and State of Oklahoma, and as a member of the Comanche Business Committee; KIRKE KICKINGBIRD; HOBBS, STRAUS, DEAN & WALKER, LLP,

Defendants-Appellees.

ORDER AND JUDGMENT*

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1 (G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

Before KELLY, PORFILIO, and O'BRIEN, Circuit Judges.

Plaintiffs-appellants appeal from the district court's order dismissing their action for lack of subject matter jurisdiction. We have jurisdiction under 28 U.S.C. § 1291 and affirm. Three of the four appellants are Deborah Hendrix and her two children, who were disenrolled as members of the Comanche Nation in April 2008. The fourth appellant, Phyllis Attocknie, was not disenrolled, but believed that she was aggrieved by what happened to Ms. Hendrix and her children. They filed suit, alleging violations of the Indian Civil Rights Act (ICRA), their due process rights, and their equal protection rights. In an order filed on July 10, 2008, the district court granted

defendants-appellees' motion to dismiss because "this dispute centers around tribal membership, a matter outside the purview of [the district court] to review." R., Doc. 27, at 4-5. The court concluded that "[t]he ICRA does not create a federal cause of action either in its own right or in conjunction with other federal law[.]" and that appellants' due process and equal protection claims "concerning tribal membership eligibility, election participation, and petitioning privileges fail because there is no federal forum created by the ICRA." Id. at 5.

"We review de novo a dismissal for lack of subject matter jurisdiction pursuant to [Fed. R. Civ. P.] 12(b)(1) and review findings of jurisdictional facts for clear error." Butler v. Kempthorne, 532 F3d 1108, 1110 (10th Cir. 2008), petition/or cert. filed (U.S. Nov. 26, 2008) (No. 08-711). Appellants argue that there is federal subject matter jurisdiction, citing numerous statutory provisions. We have carefully reviewed the district court's order in light of the parties' arguments, the record on appeal, and the governing law. As the district court observed, this is a dispute over tribal membership, which is a matter of internal tribal concern. We are un-persuaded by appellant's arguments and affirm for substantially the reasons clearly explained by the district court.

Appellants' motion for en bane review is DENIED because appellants did not comply with the requirements of Fed. R. App. P. 35(b). Even though appellants are appearing in this court pro se, they are nevertheless required to follow the court's procedural rules. Green v. Dorrell, 969 F.2d 915, 917 (10th Cir. 1992). Appellees' motion to strike appellants' reply brief (styled "Appellants' Answer to Appellees Motion to Dismiss") is GRANTED because appellants failed to obtain this court's permission to file a reply brief

that was untimely under Fed. R. App. P. 31 (a) (1) that exceeded the page limit permitted by Fed. R. App. P. 32(a) (7) (A), and that otherwise failed to comply with this court's procedural rules. Appellants' cross-motion to strike appellees' answer brief and "motion to impeach, strike and or quash" appellees' response to appellants' cross-motion to strike are DENIED as baseless.

The judgment of the district court is AFFIRMED.

Entered for the Court

John C. Porfilio
Circuit Judge

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

DEBORAH K HENDRIX, et al. Plaintiffs	)	
v.	)	Case No.
	)	CIV-08-605-M
WALLACE COFFEY, et al. Defendants	)	

ORDER

On June 11, 2008, plaintiffs filed a Complaint, and on June 23, 2008, filed an Amended Complaint accompanied by a motion for temporary restraining order [docket no. 14]. On June 24, 2008, defendants filed their response to plaintiffs' motion for temporary restraining order. The Court held a hearing on June 25, 2008, to take testimony and receive exhibits related to plaintiffs' request for injunctive relief.[1] Defendants filed a motion to dismiss [docket no. 24] on June 30, 2008. Plaintiffs filed their "Answer to Defendants Opposition to TRO" on July 7, 2008.2 Based upon the parties' submissions, the Court makes its determination.

1. Background

This action represents an internal dispute over tribal membership matters governed by the Comanche

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[1]During the Court's June 25, 2008 hearing concerning plaintiffs' motion for a temporary restraining order, the Court directed defendants to file a brief concerning the Court's subject matter

jurisdiction to hear the matter by June 30, 2008, and further directed plaintiffs to respond to defendants' submission by July 7, 2008.

[2]In their answer, plaintiffs indicated their intent to separately respond to defendants' motion to dismiss. In light of the Court's directives at the hearing, the Court reviews plaintiffs' submission as responsive in substance to defendants' motion to dismiss, although this submission is styled imprecisely.

Business Committee ("CBC,).[3,4] Plaintiffs Deborah Hendrix, Angie Revell and Philip Hendrix III allege that on April 17, 2008, they were improperly disenrolled as tribal members from the Comanche Nation. The remaining plaintiff, Phyllis Attocknie, also a member of the Comanche Nation, seeks relief related to and/or in sympathy with the claim of the other three plaintiffs, although no adverse action was proposed or taken regarding her tribal membership.

According to plaintiffs, the disenrollment is a conspiracy scheme initially conceived by members of the CBC in response to plaintiff Deborah Hendrix's efforts to gather information concerning the mismanagement of tribal programs and funds. As part of this effort, plaintiff Angie Revell collected signatures to a petition it to recall CBC Committeeman Lanny Asepermy. Despite having collected enough signatures, defendants allegedly failed to carry out the recall process as required by tribal law. Instead, defendants allegedly issued an inflammatory full page advertisement in a local newspaper declaring the recall petition fraudulent and implied that federal criminal actions were being taken against one or more plaintiffs. Furthermore, the tribal officials allegedly revoked recognition of

plaintiffs, Comanche Nation membership resulting in the denial of plaintiffs , rights to investigate tribal government mismanagement, run or vote in the recently completed tribal election process and receive tribal benefits. In addition, plaintiffs claim dissatisfaction with the tribal process provided them

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[3]The Comanche Business Committee is an elected body politic, which conducts official government business on behalf of the Comanche Nation. The Comanche Nation is a federally recognized Indian tribe and has its governmental headquarters in Comanche County, Oklahoma. See Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs, 73 Fed. Reg. 18,553 (April 4, 2008).

[4]Five of the defendants named in this suit are members of the Comanche Business Committee as follows: Wallace Coffey, Ronald RedElk, Eddie Mahseet, Lanny Asepermy, and Janice Bigbee. Furthermore, Donna Wahnee, Tribal Enrollment Director, Kirke Kickingbird, legal counsel, and Hobbs Straus Dean & Walker L.L.P., law firm, were also named as defendants in the Amended Complaint.

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because they were not permitted to submit contrary evidence prior to the CBC's action. Plaintiffs commenced this action alleging, inter alia, violations of the Indian Civil Rights Act ("ICRA") and their due process and equal protection rights. Defendants now move to dismiss the instant claims for lack of subject matter jurisdiction.

II. Standard of Review

Defendants move to dismiss all of plaintiffs claims pursuant to Federal Rule of Civil Procedure 12(b) (I) for lack of subject matter jurisdiction. Under Rule 12(b) (1), a motion to dismiss may be granted if the court does not have subject matter jurisdiction over the matter. In addressing a jurisdictional challenge, the court need not' presume all of the allegations contained in the complaint to be true, "but has wide discretion to allow affidavits, other documents, and a limited evidentiary hearing to resolve disputed jurisdictional facts" United States v. Rodriguez Aguirre, 264 F.3d 1195, 1204 (10th Cir. 2001) (internal citation omitted).

The Court must construe plaintiffs' allegations liberally because they are representing themselves. See Haines v. Kerner, 404 U.S. 519,520-21 (1972) (holding allegations of a pro se complaint "to less stringent standards than formal pleadings drafted by lawyers"); Hall v. Bellmon, 935 F.2d 1106, 1110 (10th Cir. 1991) ("[a] pro se litigant's pleadings are to be construed liberally") (internal citation omitted). However, the Court cannot be a pro se litigant's advocate. Hall, 935 F.2d at 1110. A court may not assume that a plaintiff can prove facts that have not been alleged, or that a defendant has violated laws in ways that a plaintiff has not alleged. Associated Gen. Contractors of Cal., Inc. v. Cal. State Council of Carpenters, 459 U.S. 519, 526 (1983).

III. Discussion

Defendants assert that to the extent that plaintiffs bring claims concerning tribal membership, such claims must be dismissed. Federal law recognizes that Indian tribes have the right to make their own rules and be governed by them. See

Williams v. Lee, 358 U.S. 217,220 (1958). This includes the right to determine membership in the tribe. A "tribe's right to define its own membership for tribal purposes has long been recognized as central to its existence as an independent political community." See, e.g., Santa Clara Pueblo v. Martinez, 436 U.S. 49, 72 n.32 (1978). Furthermore, "Indian tribes are separate sovereigns with the power to regulate their internal and social relations, including their form of government and tribal membership." Fletcher v. United States, 116 F.3d 1315, 1326-27 (10th Cir. 1997). "[Courts have consistently recognized that in absence of express legislation by Congress to the contrary, a tribe has the complete authority to determine all questions of its own membership, as a political entity." Martinez v. S. Ute Tribe of S. Ute Reservation, 249 F.2d 915,920 (lOth Cir. 1957) (affirming dismissal of the tribal membership action for lack of federal question jurisdiction). In agreeing with the Tenth Circuit's conclusion in Martinez, the Ninth Circuit also found "that a dispute involving membership in a tribe does not present a federal question." Fondahn v. Native Village of Tyonek, 450 F .2d 520, 522 (9th Cir. 1971).

The Eighth Circuit also cited and affirmed as follows:

> The great weight of authority holds that tribes have exclusive authority to determine membership issues. A sovereign tribe's ability to determine its own membership lies at the very core of tribal self determination; indeed, there is perhaps no greater intrusion upon tribal sovereignty than for a federal court to interfere with a sovereign tribe's membership determinations.

Smith v. Babbitt, 100 F.3d 556,559 (8th Cir. 1996).

In this case, plaintiffs assert that this Court has jurisdiction because civil rights violations have been sustained by plaintiffs. Having reviewed the parties' submissions, the Court finds that it lacks subject matter jurisdiction over this case. Specifically, the Court finds that this dispute centers around tribal membership, a matter outside the purview of this Court to review. In light of the authorities, the Court concludes that Congress manifested a broad respect for tribal sovereignty, particularly in matters affecting only Indians. Plaintiffs have failed to identify a sufficient basis or exception for subject matter jurisdiction, therefore, the Court finds that it is bound to respect tribal autonomy and does not have subject matter jurisdiction over this matter.

Furthermore, to the extent that plaintiffs bring claims pursuant to the ICRA, the Court similarly lacks the authority to hear the case. The ICRA does not create a federal cause of action either in its own right or in conjunction with other federal law. See Santa Clara Pueblo, 436 U.S. at 52; accord Ordinance 59 Ass'n v. Us. Dept. Of Interior Sec'y, 163 F.3d 1150, 1155 (10th Cir. 1998) Absent the exception of the habeas corpus petition, the ICRA does not authorize federal civil actions against either a tribe or its officers. Santa Clara Pueblo, 436 U.S. at 59, 72. The Supreme Court observed that "the structure of the statutory scheme and the legislative history of [25 U.S.C. § 1302] suggest that Congress' failure to provide remedies other than habeas corpus was a deliberate one." Id. at 61. "Creation of a federal cause of action for the enforcement of rights created in Title I, however useful it might be in securing compliance with §1302, plainly would be at odds with the

congressional goal of protecting tribal self government." Id. at 64.

Having reviewed the parties' submissions, the Court finds that plaintiffs may not challenge the alleged ICRA violations in this Court. The Court further find plaintiffs' due process and equal protection claims concerning tribal membership eligibility, election participation, and petitioning created by the ICRA. Because this dispute is an internal one, the Court does not have subject matter jurisdiction.

IV. Conclusion

For the foregoing reasons, defendants' motion to dismiss is GRANTED, and this action is hereby DISMISSED for lack of subject matter jurisdiction.

IT IS SO ORDERED this 10th day of July 2008.

"s/"

Vicki Miles-LaGrange

VICKI MILES-LaGRANGE
UNITED STATES DISTRICT JUDGE

C45.68

J. C-4568
Cadd - 12-12-75
BB

RELINQUISHMENT

Date: Dec. 11, 1975

I, Deborah K. Roberts hereby relinquish my membership and all rights or title to any privileges or benefits which I may have had as a member of the Caddo Tribe of Indians, conditioned upon my acceptance as a member of the Comanche Tribe. If such enrollment is not approved, this relinquishment statement is not effective.

I am making this relinquishment in order to be enrolled with the Comanche Tribe of Indians with which tribe I am eligible for membership. I am making this relinquishment voluntarily and I understand that I will no longer be considered a member of the Caddo Tribe of Indians if accepted as a member of Comanche Tribe, or be entitled to any of the benefits or privileges accorded other members of that tribe.

Deborah K. Roberts
Signature

Witnesses:

Mike D. Ingram
Hotchkiss, Okla.
(Address)

Sam Pahdopony
Lawton, Okla.
(Address)

RECEIVED
APR 14 2008
By

Apr. 14. 2008 2:26PM COM NATN CHR No. 4200 P. 2

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
ANADARKO AREA OFFICE
P.O. BOX 368
Anadarko, Oklahoma
73005

RECEIVED 4/21/08 DW

MAY 26 1976

IN REPLY REFER TO:
PPL. NO. C04568

EBORAH KAY ~~ROBERTS~~ Hendrix
OX 477
PACHE OK 73006

EAR MEMBER,

HE BUSINESS COMMITTEE OF THE COMANCHE INDIAN TRIBE OF OKLAHOMA HAS ETERMINED THAT YOU MEET THE REQUIREMENTS FOR TRIBAL MEMBERSHIP URSUANT TO THE PROVISIONS OF ARTICLE III OF THE COMANCHE CONSTITUTION ND BYLAWS AND YOU ARE ENROLLED AS FOLLOWS.

AME	BIRTHDATE	COMANCHE BLOOD DEGREE
'BORAH KAY ROBERTS	06/21/[redacted]	1/4

..L NO.	AUTHORITY	DATE ENROLLED	SOCIAL SECURITY NO.
04568	ART3 S18	FEB 5,1976	[redacted]

PL. 6/12/08

EQUESTS FOR CORRECTION OF ANY OF THE ABOVE INFORMATION MUST BE UBMITTED TO OUR OFFICE WITH SUPPORTING DOCUMENTS FOR CORRECTION.

OUR ABOVE ADDRESS WILL BE CHANGED ON THE MEMBERSHIP ROLL ONLY BY A ELF WRITTEN AUTHORIZATION BY YOU OR BY THE PARENT OR GUARDIAN ON EHALF OF MINOR MEMBERS.

SINCERELY YOURS,

/S/ CHARLES H. JAMES

AREA DIRECTOR

[redacted]
[redacted] ROBERTS
[redacted] BOX 231
[redacted] OKLAHOMA 73006

2414

CADDO COUNTY } SS.
FILED FOR RECORD
APR 7, 1997
Book 741 Page 72-74
[redacted] County Clerk

CORPORATION WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

That THE HOUSING AUTHORITY OF THE CADDO INDIAN TRIBE OF OKLAHOMA, aka THE HOUSING AUTHORITY OF THE CADDO TRIBE OF INDIANS, OKLAHOMA, aka THE HOUSING AUTHORITY OF THE CADDO INDIAN TRIBE OF OKLAHOMA, aka THE HOUSING AUTHORITY OF THE CADDO TRIBE OF OKLAHOMA, aka THE HOUSING AUTHORITY OF THE CADDO TRIBE OF INDIANS OF OKLAHOMA, aka THE HOUSING AUTHORITY OF THE CADDO TRIBE OF INDIANS OF OKLAHOMA, public body corporate and politic, of Caddo County, State of Oklahoma, party of the first part, in consideration of the sum of TEN AND NO/100 DOLLARS ($10.00) and other good and valuable consideration, in hand paid, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto Deborah Wells Roberts, hereinafter collectively or individually referred to as party of the second part, the following-described real property and premises situate in Caddo County, State of Oklahoma, to-wit:

A tract of land in the NW/4 of Section 16, Township 5 North, Range 11 West of the I.M., Caddo County, Oklahoma, described as beginning at a point 660 feet South of the NW/c NW/4 of said Section 16; thence South 330 feet; thence East 264 feet; thence North 330 feet; thence West 264 feet to the point of beginning.

together with all improvements thereon and the appurtenances thereunto belonging, and warrant the title to the same.

SAID CONVEYANCE is made subject to all covenants,, easements, restrictions, reservations, conditions, and rights appearing of record against the above-described property; also SUBJECT to any state of facts which an accurate survey of said property would show.

"THIS TRANSACTION IS EXEMPT FROM DOCUMENTARY STAMP PER TITLE 68, OKLAHOMA STATUTES, ARTICLE 32, SECTION 3202, PARAGRAPH II."

Attachment I

BEST AVAILABLE COPY

Corporation Warranty Deed
Page 2

TO HAVE AND HOLD said described premises unto the said party of the second part, her heirs, personal representatives and assigns forever, free, clear and discharged of and from all former grants, charges, taxes, judgments, mortgages and other liens and encumbrances of whatsoever nature.

SIGNED AND DELIVERED this 31ST day of MARCH, 1993.

THE HOUSING AUTHORITY OF THE CADDO INDIAN TRIBE OF OKLAHOMA, aka THE HOUSING AUTHORITY OF THE CADDO TRIBE OF INDIANS, OKLAHOMA, aka THE HOUSING AUTHORITY OF THE CADDO INDIAN TRIBE OF OKLAHOMA, aka THE HOUSING AUTHORITY OF THE CADDO TRIBE OF OKLAHOMA, aka THE HOUSING AUTHORITY OF THE CADDO TRIBE OF INDIANS OF OKLAHOMA, aka THE HOUSING AUTHORITY OF THE CADDO TRIBE OF INDIANS OF OKLAHOMA

Lawrence Snake, Chairman

ATTEST:

Secretary

(SEAL)

The Housing Authority of the Caddo Tribe of Indians of Oklahoma
Post Office Box 167 - 21 Halfmoon Circle
Gracemont, Oklahoma 73042

May 29, 2008

TO WHOM IT MAY CONCERN

The Caddo Housing Authority of the Caddo Tribe of Indians of Oklahoma signed a Mutual-Help and Occupancy Agreement with James Hugh Roberts Jr. and Deborah Wells Roberts on the 4th of November, 1972, the home paid off and a Corporation Warranty Deed was conveyed and recorded for record at the Caddo County Courthouse in Anadarko, Ok, to Deborah Wells Roberts on April 7, 1993, to-wit:

> A tract of land in the NW/4 of Section 16,
> Township 5 North, Range 11 West of the I.M.,
> Caddo County, Oklahoma, described as beginning
> At a point 660 feet South of the NW/c of the NW/4
> of said Section 16; thence South 330 feet; thence
> East 264 feet; thence North 330 feet; thence
> West 264 feet to the point of beginning.

The Housing Authority of the Caddo Tribe of Indians of Oklahoma had relinquished all interest or involvement in said property at the time the Corporation Warranty Deed was filed.

Caddo Nation Division of Housing
Deputy Director
Charlene Wright

405.966.2203 office -- 405.966.2648 fax

Attachment H

Elmo Clark, CHAIRMAN
Ann Donaghey, VICE-CHAIRMAN
Jessica Sampsakkaw, SECRETARY
Ellery Compton, TREASURER

YI [illegible], ANADARKO REPRESENTATIVE
Li [illegible], BINGER REPRESENTATIVE
Laura Edmonds, Jr., FT. COBB REPRESENTATIVE
Mary Davis, OKLAHOMA CITY REPRESENTATIVE

Caddo Indian Tribe of Oklahoma

Post Office Box 487
Binger, Oklahoma 73009
405/656-2344 · 405/656-2345

RECEIVED
4/21/08 DJ

February 18, 1994

Ms. Zenia Anderson, Enrollment Dir.
Comanche Indian Tribe
P.O. Box 908
Lawton, OK 73502

Dear Ms. Anderson:

Reference your letter dated February 14, 1994.

Encoding forms have been sent to the Anadarko Agency for Tavia Frances Torralba, Angie Annette Hendrix and Phillip Jesse Hendrix III.

They will remain on our print-out but will be designated as "Relinquished" and will no longer be members of the Caddo Tribe. At some point in the future, whenever we deem appropriate, all relinquished entries will be purged from our records.

Zenia, I hope this satisfies your requirements. Please call or write our office if we can be of further assistance.

Sincerely,

Charles E. Carter

Charles E. Carter
Caddo Tribe Enrollment

COMANCHE

FEBRUARY 8, 1994

APPLICATION NO. C11318

RESPONSIBLE PARTY FOR:

ANGIE ANNETTE HENDRIX
RT 1 BOX 6025
ELGIN, OK 73538

DEAR MEMBER:

THE BUSINESS COMMITTEE OF THE COMANCHE INDIAN TRIBE OF OKLAHOMA HAS DETERMINED THAT YOU MEET THE REQUIREMENTS FOR TRIBAL MEMBERSHIP PURSUANT TO THE PROVISIONS OF ARTICLE III OF THE COMANCHE CONSTITUTION AND BY LAWS AND YOU ARE ENROLLED AS FOLLOWS:

NAME	BIRTH DATE	COMANCHE BLOOD DEGREE
ANGIE ANNETTE HENDRIX	06/04/1983	3/8

ROLL NO.	AUTHORITY	DATE ENROLLED	SOCIAL SECURITY NO.
C11318	ART3 S1C	FEB 5, 1994	

REQUESTS FOR CORRECTION OF ANY OF THE ABOVE INFORMATION MUST BE SUBMITTED TO OUR OFFICE WITH SUPPORTING DOCUMENTS FOR CORRECTION.

YOUR ABOVE ADDRESS WILL BE CHANGED ON THE MEMBERSHIP ROLL ONLY BY A SELF WRITTEN AUTHORIZATION BY YOU OR BY THE PARENT OR GUARDIAN ON BEHALF OF MINOR MEMBERS.

SINCERELY,

Wallace Coppy

TRIBAL CHAIRMAN
COMANCHE BUSINESS COMMITTEE

COMANCHE

RECEIVED 4/21/08

FEBRUARY 8, 1994

APPLICATION NO. C11319

RESPONSIBLE PARTY FOR:

PHILLIP JESSE HENDRIX
RT 1 BOX 6025
ELGIN, OK 73538

DEAR MEMBER:

THE BUSINESS COMMITTEE OF THE COMANCHE INDIAN TRIBE OF OKLAHOMA HAS DETERMINED THAT YOU MEET THE REQUIREMENTS FOR TRIBAL MEMBERSHIP PURSUANT TO THE PROVISIONS OF ARTICLE III OF THE COMANCHE CONSTITUTION AND BY LAWS AND YOU ARE ENROLLED AS FOLLOWS:

NAME	BIRTH DATE	COMANCHE BLOOD DEGREE
PHILLIP JESSE HENDRIX	12/23/[redacted]	3/8

ROLL NO.	AUTHORITY	DATE ENROLLED	SOCIAL SECURITY NO.
C11319	ART3 S1C	FEB 5, 1994	[redacted]

04/13/08

REQUESTS FOR CORRECTION OF ANY OF THE ABOVE INFORMATION MUST BE SUBMITTED TO OUR OFFICE WITH SUPPORTING DOCUMENTS FOR CORRECTION.

YOUR ABOVE ADDRESS WILL BE CHANGED ON THE MEMBERSHIP ROLL ONLY BY A SELF WRITTEN AUTHORIZATION BY YOU OR BY THE PARENT OR GUARDIAN ON BEHALF OF MINOR MEMBERS.

SINCERELY,

Wallace Coffey

TRIBAL CHAIRMAN
COMANCHE BUSINESS COMMITTEE

of his or her parents or legal guardian becomes a recognized or enrolled member of another Indian tribe with the full rights, privileges and powers of membership under the rules of said other tribe, which said affirmative action and subsequent recognition or enrollment shall automatically effect a permanent withdrawal from membership in the Comanche Nation and a relinquishment of all rights and benefits thereunder; or...

"Now therefore be it resolved, that individual named above, be removed from the tribe's membership roll because of the inadvertent approval outside an open enrollment period and 90 day period after constitutional approval,

"Be it further resolved, that the individual named be officially notified of the automatic withdrawal of her name from the Comanche Nation's membership roll, stating the reasons for such disenrollment."

I have a motion to that affect. This will be Resolution Number 56-08.

MR. REDELK: Mr. Chairman, I make that motion.

MR. MAHSEET: I second.

MR. COFFEY: Ron, motion, Eddie,

second. Okay. A motion made by Vice-Chairman Ron RedElk to approve Resolution Number 56-08 to remove Mrs. Deborah K. Wells as an enrolled number of the Comanche Nation because the application -- her application did not meet Comanche Nation constitutional requirements.

Does that sound satisfactory to you girls?

A second has been made by Committeeman Eddie Mahseet. Any discussion? Hearing none, all those in favor signify by saying "aye".

(Aye.)

MR. COFFEY: All those opposed.

MR. NARCOMEY: No.

MR. COFFEY: All those abstain. That's 56-08. Motion carried. One no, no abstentions.

MR. TAHHAHWAH: Mr. Chairman, before we move on, could we have Johnny explain the purchase of the golf course on the south side of Lawton?

MR. ASEPERMY: We've got one more resolution.

MR. TAHHAHWAH: Oh, there is?

MR. ASEPERMY: Is there one more resolution?

MR. MAHSEET: Two.

MR. ASEPERMY: Two?

MR. COFFEY: Yeah, I'm almost done.

MR. ASEPERMY: Anybody not get your financial reports on the CBC --

MS. WAHNEE: We picked up somebody's.

MR. ASEPERMY: Johnny, you got a copy?

MR. WAUQUA: Yeah, we got a couple extra over here, too.

MS. BIGBEE: Maybe it's mine.

MR. COFFEY: Okay. I'll entertain a motion to approve Resolution Number 57-08 to remove Angie Hendrix-Revell and Phillip Hendrix, III, from the Comanche Nation because they are members of the Caddo Nation, which constitutes dual enrollment. Do we have a motion to that effect?

MR. ASEPERMY: I make that motion, Mr. Chairman.

MR. COFFEY: Motion has been made by Committeeman Lanny Asepermy. Do we have a second?

MR. MAHSEET: I'll second.

MR. COFFEY: All right. For the record, I think that this -- these minutes must be taken because we're talking about -- for the past several months, people have been screaming and talking about an audit of the enrollment. At that time, there has been probably accusations made against each individual based upon not abiding by the constitution or not being members of the tribe.

Whatever their presumptions were, they made it public, and they made it very evident that they had issues for concern. In other words, it created a ripple effect amongst our Comanche people, because they are concerned, and they have inquiries. And our enrollment office has received letters requesting looking into somebody's application, searched and researched somebody's enrollment application to determine are they really Comanche or what?

And as a result of that, this is what action we have, those seven, eight, individuals, Deborah Hendrix did not abide by the constitutional provisions, and another one that were constitute dual enrollment. But you have the minutes, and this is action taken in a meeting

officially called at a Comanche Business Committee meeting. Do we have any discussion?

MS. BIGBEE: I think you mentioned before, people are going to say, well, Wallace did it. Wallace didn't do it. The CBC voted, and the motion passed, therefore Wallace had to sign these documents. It wasn't just Wallace.

MR. ASEPERMY: And I might want to add that there are others pending further investigation.

MS. WAHNEE: There's approximately 200 more pending.

MR. ASEPERMY: Approximately 200, Mr. Chairman, that are pending investigation, too.

MR. COFFEY: Well, that's what I'm saying. Somebody has made accusations and that person that was accused said, well, let's find out what's going on. So, now, you've got a ripple effect across the nation which may affect 200 individuals on our tribal enrollment. Okay. Any further discussion?

MR. ASEPERMY: Now, this on Angie and Phillip, this is a dual enrollment.

MR. COFFEY: Dual enrollment. And Debbie's because it didn't abide by constitutional

requirements. Any further discussion? Hearing none, all those in favor signify by saying "aye".

(Aye.)

MR. COFFEY: All those opposed, same sign. All those abstain, same sign.

MR. NARCOMEY: Abstain.

MR. COFFEY: One abstention.

All right. One more action item, a motion. This is a Resolution Number 57 --

MS. BIGBEE: 58.

MR. COFFEY: No, because he's got 55, and this is 56, so this will be 57. This won't be a resolution, it'll be a motion.

MS. WAHNEE: That's a motion, yeah.

MR. COFFEY: This will be a motion that Mr. Charles Wells will be suspended effective immediately from --

MR. NORMAN: Chairman of the Election Board.

MR. BURSON: As an election board member.

MR. WAUQUA: He also has a computer, laptop computer that has the enrolled numbers and people on there, too. We need to get that back.

MR. COFFEY: He has one, personally?

MS. WAHNEE: A laptop.

MR. COFFEY: He does?

MR. ASEPERMY: And you provided a number of disks that you've not seen?

MS. WAHNEE: Within a two-week period, the election board had requested eleven different disks of the enrollment information.

MR. COFFEY: This is pending, right?

MS. WAHNEE: This is pending, right.

MR. COFFEY: Pending, what?

MS. WAHNEE: I don't know if you want to say research or just –

MR. WAUQUA: Pending eligibility.

MS. WAHNEE: Pending eligibility of enrollment, yeah. And I should have that within the next, you know, 30 days, for sure. Because she said it's going to take her some time to get out of archives, but they've got to request it and have it shipped in and then pull it out.

MR. ASEPERMY: Would it be better to say pending research of current enrollment status?

MR. NORMAN: Pending eligibility.

MR. ASEPERMY: Because she's already trying to prove – pending research.

MS. BIGBEE: Should part of the motion also include him returning all of the enrollment disks that he may have?

MS. WAHNEE: Well, he stated he sent them all to Mr. Rainey. And Mr. Rainey told me he's only had four or five, two of which were corrupted. But we had -- our software, when we were trying to run it, it was corrupting the CD. So two of those we know are corrupted, and then Mr. Rainey received two complete enrollments after that.

MR. ASEPERMY: Mr. Wauqua, does he have a cell phone that belongs to the nation?

MR. WAUQUA: I think so.

MS. WAHNEE: I do know that since last week, that all correspondence with Mr. Rainey, as far as the enrollment information, goes directly to Rainey. I don't turn any of that information over to the election board anymore. I send it straight to Mr. Rainey. And up until I became director, Mr. Rainey advised me that they'd always done that, they'd always sent everything directly to him, and he handled it.

And when I took over, that's when the election board said, no, you give it to us. And,

of course, they brought me memos that was signed, and that's where I'd given them the information, and they in turn sent it to Mr. Rainey. That's when Mr. Rainey had advised me that he was concerned about the roll and the information, because --

MR. MAHSEET: Doesn't Charles own his own computer service there in Anadarko? He's got a big billboard sign right by his smoke shop.

MR. COFFEY: That might be Rodney.

MR. WAUQUA: That's his brother, I think.

MR. MAHSEET: Is it Rodney or --

MS. WAHNEE: I have no idea.

MR. COFFEY: Motion that Mr. Charles Wells be suspended from the election board pending the conclusion of an investigation to determine eligibility of enrollment. This further includes a return of all property belonging to the Comanche Tribe Gaming Office. Does that sound right?

MR. BURSON: I would say election board.

MS. WAHNEE: Validity.

MR. BURSON: Does he have a computer of the nation or is it election board --

MS. WAHNEE: He has a laptop from the election board and he has a cell phone from the election board.

MR. ASEPERMY: Return all Comanche Nation property -- cell phone, laptop, disks.

MR. COFFEY: Effective immediately?

MS. BIGBEE: Yes.

MR. COFFEY: Do we have a motion to that effect?

MR. ASEPERMY: Mr. Chairman, I make that motion.

MR. MAHSEET: So moved.

MR. COFFEY: Okay. Once again.

MS. WAHNEE: Do I have a time frame? I mean, what time frame do we give him?

MR. COFFEY: I'll have to do it tomorrow.

MS. WAHNEE: No, I mean a time frame for the research, because I don't know how long it's going to take, since they have to request a lot of that documentation to be transferred in.

MR. NORMAN: I mean, the concern remains until you get that information, so --

MS. WAHNEE: Okay. Because I know just for us to do some of the research to get

three pages of documents, it took us five trips all day in Anadarko just to find three pages.

MR. COFFEY: It's contingent upon -- and he's going to come and ask. You know they're going to all come ask. So you're going to have to say, well, this was information supplied to you by the Caddo Enrollment Office. And we haven't received all the documentation, but it all started with these here.

MS. WAHNEE: Okay.

MR. COFFEY: And somebody requested that it be looked into Deborah Hendrix's issue, and you found these other things, which was with regard to her, as well as her children, and he's affected by all that, too.

MS. WAHNEE: His child, one of them, too. Her son, too. His kids are on that list, too.

MR. COFFEY: Well, you're talking about that list, you're talking about that 200?

MS. WAHNEE: That 200, it's a huge ripple effect like you were saying.

MR. COFFEY: Okay. We have a motion and a second effective immediately. Do we have any discussion?

MR. BURSON: Who seconded?

MR. COFFEY: Eddie Mahseet.

And all those in favor signify by saying "aye".

(Aye.)

MR. COFFEY: All those opposed, same sign. All those abstain, same sign.

MR. NARCOMEY: Abstain.

MR. COFFEY: Motion's carried, one abstention.

Okay. What I will do, then, is -- I think you need these, Jim. And maybe you can fax these.

MR. BURSON: Okay. We'll just copy them right here.

MR. COFFEY: Because I can't take any action without those resolutions. He signed them all.

MR. BURSON: Oh, you signed them all?

MR. TAHHAHWAH: Yes.

MR. COFFEY: Well, just like you said, as a result of this investigation, then somebody saying when are y'all going to do an audit, and then somebody questioned Eddie, then

everybody else is questioning everybody, so --

MS. WAHNEE: I've been auditing.

MR. COFFEY: Yes, so this is a result of it. And, you know, she's going to come and talk to you.

MS. WAHNEE: She'll go through law enforcement first. I'm sorry, but, you know --

MR. ASEPERMY: Well, I would advise that --

MS. WAHNEE: I don't want the disruption that I had before.

MR. ASEPERMY: I would advise, because of the hostility sometimes displayed by some of our nation members that maybe we could put one of your law enforcement officers in the new conference room or somewhere. You never know what's going to happen. People get angry. And it might go beyond cussing out.

MS. WAHNEE: Or my tires get the air let out of them, again.

MR. COFFEY: You only got one good foot left, too.

MS. WAHNEE: And I've only got one good foot.

MR. ASEPERMY: I would advise that

they post an enforcement officer somewhere in the vicinity of your workplace, because you've got other employees' safety and maybe --

MS. WAHNEE: I have to look out for their safety.

MR. ASEPERMY: I don't know.

MS. WAHNEE: I know just with just the last time -- and, honestly, this is just me with the issue that we had with Eddie's ordeal -- I got harassed a lot, to the point where it disrupted my day-to-day work with my staff. And my staff -- as soon as we saw someone come into the building, my staff were, like, shut the doors, lock the doors, you deal with it. And, you know, that's sad that my staff can't feel safe or feel comfortable in their own department. And that's a shame.

MR. COFFEY: Yeah, but you've got locks on your doors.

MS. WAHNEE: I've got locks on my doors. But when they come to the window and they're screaming and yelling and they're ringing off the hook, that's disruptive to my staff. I just don't want to go through that. And I know there's going to be a lot of outflow from it.

MR. COFFEY: Johnny, you take these -- I've got a doctor's appointment in the morning, so I don't -- can you take these motions -- well, can you just provide her with some security?

MR. WAUQUA: Yeah.

MR. COFFEY: Mrs. Hendrix is going to have to be notified, though.

MR. WAUQUA: Get the letter -- the letter done and we'll get the law enforcement to deliver it.

MR. COFFEY: Okay.

MS. WAHNEE: Okay. I just want to say thanks for the vote of confidence that all you have in me. And I hope that I've been doing the department justice, and I hope I've been doing you guys justice. And I'm trying my best, and I'm trying to keep my staff on their toes to do their best. And, you know, it's a shame that it has to come to this, but I was put in this position, and I was asked to be in this position for a reason, and I've got 14,000 tribal members I've got to look after. That's a lot of people. But I'm probably one of the only departments that didn't ask for a raise in our budget, did I?

MR. COFFEY: No, there was a lot.

MS. BIGBEE: I don't know how the other CBC members feel, but I don't think we took this issue lightly.

MR. ASEPERMY: We talked about it for the last two hours.

MS. BIGBEE: It was very seriously -- you know, to follow the constitution and do with what we feel that's correct and the proper thing to do.

MR. COFFEY: All right. We've got how many people out there?

(Discussion held off the record.)

MR. WAUQUA: At the last monthly meeting, y'all had voted on or decided to buy the land by Mr. Dodd out west of Lawton, Indiahoma that way. And Mr. Coffey had sent me out there to look at it to see what we could do or what could be done with it. And he instructed and said that we might be able to use it for the fair or put the buffalo out there or something, which it is a very nice place, but it was too far out, from what I looked at, to see would be -- to place the fair there, to move it, but it is a good place.

I wished it was closer to town, so we would have the accommodations for people to stay.

COMANCHE

Resolution No._____
List No. 731

RESOLUTION

WHEREAS, the Comanche Business Committee has reviewed the individual enrollment of the individual named below, who was inadvertently approved for enrollment as a member of the Comanche Nation pursuant to the membership provision of the tribe's Constitution and Bylaws, approved January 9, 1967, and,

WHEREAS, the documentary evidence furnished by the Caddo Nation Enrollment Department confirms that the named individual, Deborah K. Wells Hendrix was an enrolled member of the Caddo Nation and the Comanche Nation Enrollment Department received a conditional relinquishment from the above named individual to enroll with the Comanche Nation on December 11, 1975. The Comanche Nation Constitution ratified 1966 approved January 9, 1967 did not allow for an open enrollment period. The application for enrollment was received after the ninety (90) day period after approval of the constitution for a choice of tribal affiliations.

WHEREAS, Article III, Section 3 (c), of the tribe's Constitution and Bylaws approved January 9, 1967 provides "Any person eligible for membership in the Comanche Nation under the provisions of Section 1 of this Article shall be considered as member of the Comanche Nation, unless:

(c) The person after the adoption of this constitution by his or her affirmative action or, if a minor, by the affirmative action of his or her parents or legal guardian becomes a recognized or enrolled member of another Indian tribe with the full rights, privileges and powers of membership under the rules of said other tribe, which said affirmative action and subsequent recognition or enrollment shall automatically effect a permanent withdrawal from membership in the Comanche Nation and a relinquishment of all rights and benefits thereunder; or .....

NOW THEREFORE BE IT RESOLVED, that the individual named above, be removed from the tribe's membership roll because of the inadvertent approval outside an open enrollment period and ninety (90) day period after constitution approval,

BE IT FURTHER RESOLVED, that the individual named be officially notified of the automatic withdrawal of her name from the Comanche Nation's membership roll, stating the reasons for such disenrollment.

COMANCHE NATION P.O. BOX 908 / LAWTON, OK 73502
PHONE: 580-492-4988 TOLL FREE: 1-877-492-4988 FAX: 580-

COMANCHE

CERTIFICATION

The above Resolution was duly adopted at a monthly meeting of the Comanche Business Committee held on April 17, 2008, at the Comanche Nation Business Center, Lawton, Oklahoma, by a majority vote of 5 for 0 against, and 2 abstentions, a quorum being present.

Attest:

Wallace E. Coffey, Chairman

Edward Tahhahwah, Jr. Secretary-Treasurer

COMANCHE NATION P.O. BOX 908 / LAWTON, OK 73502
PHONE: 580-492-4988 TOLL FREE: 1-877-492-4988 FAX: 580-492-3796

COMANCHE

Resolution No._____
List No. 730

RESOLUTION

WHEREAS, the Comanche Business Committee has reviewed the individual enrollments of the individuals named below, who was inadvertently approved for enrollment as a member of the Comanche Nation pursuant to the membership provision of the tribe's Constitution and Bylaws, approved January 9, 1967, and,

WHEREAS, the documentary evidence furnished by the Caddo Nation Enrollment Department confirms that the named individuals, Angie Annette Hendrix Revell and Phillip Jesse Hendrix III are enrolled with the Caddo Nation since April 2, 1987, and the Comanche Nation Constitution prohibits dual enrollment, these individuals applied for membership with the Comanche Nation on January 23, 1994 and enrolled on February 5, 1994 and,

WHEREAS, Article III, Section 3 (c), provides "Any person eligible for membership in the Comanche Nation under the provisions of Section I of this Article shall be considered as member of the Comanche Nation, unless:

(c) The person after the adoption of this constitution by his or her affirmative action or, if a minor, by the affirmative action of his or her parents or legal guardian becomes a recognized or enrolled member of another Indian tribe with the full rights, privileges and powers of membership under the rules of said other tribe, which said affirmative action and subsequent recognition or enrollment shall automatically effect a permanent withdrawal from membership in the Comanche Nation and a relinquishment of all rights and benefits thereunder; or .....

NOW THEREFORE BE IT RESOLVED, that the individuals named above, are being removed from the tribe's membership roll because of their dual enrollment status, as a member of the Caddo Nation, and

BE IT FURTHER RESOLVED, that the individuals named be officially notified of the automatic withdrawal of their names from the Comanche Nation's membership roll, stating the reasons for such disenrollment.

COMANCHE

CERTIFICATION

The above Resolution was duly adopted at a monthly meeting of the Comanche Business Committee held on April 17, 2008, at the Comanche Nation Business Center, Lawton, Oklahoma, by a majority vote of 5 for 0 against, and 2 abstentions, a quorum being present.

Attest:

Wallace E. Coffey, Chairman

Edward Tahhahwah, Jr. Secretary-Treasurer

Caddo Nation of Oklahoma

TRIBAL ENROLLMENT
Post Office Box 487
Binger, Oklahoma 73009
(405) 656-2344 • (405) 656-2345
FAX #(405) 656-2551

RECEIVED
APR 21 2008
By

April 18, 2008

TO WHOM IT MAY CONCERN:

This is to certify that the records of this office show that Deborah Hendrix **is not enrolled or has never been enrolled with the Caddo Nation of Oklahoma.**

CERTIFIED IN BEHALF OF THE CADDO NATION OF OKLAHOMA

Signature: _____ **Title:** Enrollment Clerk **Date:** 04-18-08

Patricia Saenz **Date:** 4-18-08
Enrollment Director

_____ **Date:** 4-18-08
Caddo Nation Chairperson

United States Department of the Interior

Bureau of Indian Affairs
Southern Plains Regional Office
P. O. Box 368
Anadarko, Oklahoma 73005

IN REPLY REFER TO:
Tribal Government Services

MAY 2 7 2008

Deborah Hendrix
820 N.E. Cherry Rd.
Elgin, Oklahoma 73538

Dear Ms. Hendrix:

We have reviewed your protest dated May 12, 2008, from the action of the Comanche Business Committee (CBC) taken on April 17, 2008, purportedly disenrolling you as a member of the Comanche Nation. Your letter states that your rights under the Indian Civil Rights Act have been violated by the CBC in the following regards.

As described in your letter, you have not been provided due process:

1. No proper notice was provided you prior to the disenrollment action.
2. You had no opportunity to refute the allegation against you at the purported meeting.
3. You have not been properly advised in writing of your appeal rights.
4. No proper appeal forum has been provided you by the CBC from its decision of April 17th.

Further you allege that you have not been provided equal protection under the constitution as follows:

5. The Comanche Nation has no ordinance or procedure adopted on disenrollment.
6. The CBC acted improperly by removing you from the list of candidates by telephone and not at a duly called meeting.

We are accepting your protest due to the potential conflict of interest that the Anadarko Agency Superintendent, Betty Tippeconnie, may have in this matter due to the candidacy of her husband for the same position that you had been nominated for.

The Bureau of Indian Affairs has an interest in the integrity of tribal membership rolls because individuals use their membership to obtain federal services or funds. Additionally, the Bureau, because of the possibility of violating a person's rights in a disenrollment action, may review those matters to assure that the standards established under the Indian Civil Rights Act (ICRA) and a tribe's constitution are met. These standards are generally of due process and equal protection. Due process, at a minimum, grants a person the right of notice to an adverse action, a hearing at which he or she can present evidence to refute any allegations, and an appeal procedure to an impartial review forum.

Equal protection assures a person the right to receive the same treatment under a tribe's laws or rules as any other tribal member would have. It assures that no selective action is taken against one person simply based on who he or she is.

Disenrollment is an extremely serious action. In addition to making a person ineligible for the benefits and services of his tribe, disenrollment could effectively end an individual's opportunity to be a member of any Indian tribe. It would make him ineligible for Bureau programs that require tribal membership; it could possibly affect a person's right to have land in trust status. For this reason, the tribe has the burden of proof to establish that a member is not properly enrolled. From our examination of the materials you provided, we find the following noted irregularities in the action taken against you.

To our knowledge the Comanche Nation does not have an enrollment ordinance adopted by the Tribal Council. Under Article V Section 7(a) the Tribal Council is authorized to "change, modify, alter, or revoke membership rules." This is the only reference to membership rules; it implies that the Tribal Council, having the authority to modify or revoke such rules, also is authorized to adopt them.

Article VI Section 7(a) grants the Comanche Business Committee (CBC) only the authority to "establish and maintain the tribal membership roll. . ." In other words, the CBC is authorized to keep the roll current. There is no authority for the CBC to make or adopt membership rules.

The Anadarko Agency provided a copy of the Comanche Nation's ENROLLMENT RULES AND REGULATIONS which is undated and not supported by a resolution. Unless these rules have been adopted by the Tribal Council, they are not in effect.

In the absence of a procedure and specific authority to disenroll persons, the Comanche Business Committee cannot proceed arbitrarily in removing a person from its roll. First it must be determined which body has the authority to conduct disenrollment proceedings. Since the constitution is silent on this issue, the CBC cannot presume it has that authority. It would also need to adopt some provisional procedures governing disenrollment which protect an individual's rights. The proper body to adopt rules for any enrollment related matter is the Tribal Council as discussed above.

According to the submitted documents you were enrolled in 1976 under Article III Section 1(b) and have been continuously a member of the Comanche Nation since then. There is also evidence from the Anadarko Agency and Caddo Tribe that you were never a member of the Caddo Tribe of Oklahoma. The only evidence the CBC presented to support its action was the relinquishment dated December 11, 1975, approximately 5 months prior to you being advised of your enrollment in the tribe. You were previously advised by the Deputy Regional Director (IS) that this may have been a requirement for the enrollment for the Kiowa-Comanche-Apache per capita payment of 1976. We are not certain that this is the case, or if the tribe required it to complete your enrollment file. However, even if you had been a member of the Caddo Tribe, that membership ended when you presented the relinquishment to the Comanche Nation and were accepted as a member of that tribe. It would not constitute dual enrollment. The relinquishment states in part:

> I am making this relinquishment voluntarily and I understand that I will no longer be considered a member of the Caddo Tribe of Indians if accepted as a member of the Comanche Tribe . . . (emphasis added)

This language clearly expresses the intent of the document which is to sever membership (if that had been the case) in the Caddo Tribe at the time of your enrollment in the Comanche Nation. The Nation erred in using this document as a basis for your disenrollment. Further, the weight of the evidence from the Anadarko Agency and Caddo Tribe support your contention that you were never a member of the Caddo Tribe.

The Nation failed to comply with a the basic guarantees of due process in that you were not advised of the hearing on April 17, 2008, and afforded an opportunity to present your evidence. It also failed to provide adequate notice of your appeal rights in that the letter dated April 18, 2008, does not state whether there will be a hearing or when that hearing would be. This letter also cites an erroneous authority for the appeal process. Further, a decision is not usually final and in effect until all appeals are exhausted or the time to file an appeal has expired, unless the governing law or rule provides that it will be in effect immediately.

The appeal to the CBC violates the due process guarantees since it is not appealed to a separate unbiased board or body from the one which took the initial action. This is not a true appeal and does not meet the requirement of due process. At this time the Nation appears to lack a forum for enrollment disputes.

Subsequent to the meeting of April 17th, the CBC twice attempted to remove you from the ballot for the next election based on your disenrollment. These efforts on April 22nd and 24th were by "phone vote". The constitution provides at Article VI that the CBC will conduct business at meetings at which a quorum is present. There is no provision for transacting business by "phone vote" whether it is a conference call or by polling CBC members by phone. Actions taken outside of a properly called meeting with a quorum present are void.

Based upon our examination of the information you provided and the Constitution of the Comanche Indian Tribe, we tentatively find your disenrollment invalid. Your rights under the ICRA were violated by the lack of proper procedures and selective enforcement. Also, the CBC acted in an unconstitutional manner in voting to remove you from the ballot by telephone polls.

We are, by copy of this letter with enclosures, providing the Comanche Nation an opportunity to submit documents supporting its action within 10 days of receipt. The Nation is to provide you a copy of its response also. These documents should, at a minimum, include the notice calling the special CBC meeting of April 17th and the minutes from that meeting, a copy of the duly adopted enrollment ordinance, a copy of the notice and evidence of delivery to you for the April 17th meeting, copies of other evidentiary documents supporting the Nation's contention of dual enrollment, and a copy of your appeal rights advising you of your right to a hearing and to present evidence. If documents are received, we will examine them and make a final decision in this matter. Should the Nation not respond timely with supporting documents, then the above decision will become final and appeal rights will be given the parties.

If the Comanche Nation feels that it needs technical assistance in reviewing its enrollment policies or procedures, the Branch of Tribal Government Services is available at the Nation's request.

Sincerely,

(Sgd.) Dan Deerinwater

Regional Director

cc: Anadarko Agency Superintendent
RD's file copies
Subject/chrony(tcommon\wp\Comanche\Debbie Wells)
SCHANEY 05/22/08

June 9, 2008

Dan Deerinwater, Director
Southern Plains Region
Bureau of Indian Affairs
P.O. Box 368
Anadarko, OK 73005

Re: Response to Letter Addressed to Deborah Hendrix dated May 27, 2008

Dear Mr. Deerinwater:

The Comanche Nation has been invited to respond to conclusions reached in the aforementioned letter by way of providing a copy to the Nation. (Although as of this date, the Nation has not received any official correspondence directly from the Bureau.) We are providing you a response on behalf of the Comanche Nation. The Comanche Nation wants to make clear that this issue is purely an intra-tribal dispute and was not raised to the Bureau by any official act of the Nation, nor was it properly raised for your consideration by Ms. Hendrix. Therefore, the Nation respectfully requests that the Bureau withdraw its "tentative" decision in this matter. [For your information, Ms. Hendrix also has a complaint in the Court of Indian Offenses for the Comanche Nation, CN 08-AII, Hendrix v. Coffey, et al, filed April 25, 2008, alleging identical facts and grievances. Because it is an intratribal dispute, the Court does not have jurisdiction pursuant to 25 C.F .R. § 11.1 04(b) and (e).]

II. The Bureau lacks authority to consider or decide Ms. Hendrix's complaint.

This matter is essentially a dispute over membership in the Comanche Nation. Historically, tribal membership is considered to be a matter within the exclusive province of the tribes themselves. As was observed by the U.S. Supreme Court in Santa Clara Pueblo v. Martinez, 436 U.S. 49, 72, n. 32 (1978), "[a] tribe's right to define its own membership for tribal purposes has long been recognized as central to its existence as an independent political community." Federal courts refrain from intruding into tribal membership decisions. "[T]here is perhaps no greater intrusion upon tribal sovereignty than for a federal court to interfere with a sovereign tribe's membership determinations." Smith v. Babbitt, 100 F.3d 556, 559 (8th Cir. 1996); see also Ordinance 59 Ass'n v. U.S. Dept. of the Interior, 163 F.3d 1150, 1153 n. 3 (10 Cir. 1998) (observing, "Tribes, not the BIA, have exclusive authority on membership determinations for tribal purposes.")

A. The Bureau does not have authority to determine Comanche Nation membership.

The matter of Ms. Hendrix's membership with the Comanche Nation is not within the authority of the Bureau of Indian Affairs to review, determine, or resolve. See Cahto Tribe of the Laytonville Rancheria v. Pacific Regional Director, 38 IBIA 244 (12/19/2002) (vacating decisions of the superintendent and regional director to not recognize disenrollment of tribal members). We note that your letter failed to state the authority under which your office decided to conduct a review of this matter or to attempt to determine a resolution. The Nation has not requested, nor authorized the Bureau to review or resolve disputes related to membership in the Comanche Nation. The Comanche Constitution does

not grant the Bureau authority to review or decide membership issues.

B. The Bureau does not have authority to make a determination of violations of the Indian Civil Rights Act under these circumstances

Because the matter of Ms. Hendrix membership in the Comanche Nation is purely internal to the Nation, for which the Bureau has not been authorized to scrutinize, your office is also without authority to make a determination regarding the validity of the membership issue under the Indian Civil Rights Act ("ICRA"). See Welmas v. Sacramento Area Director, 24 IBIA 264,272 (1993) (holding ICRA is not an independent grant of authority for BIA to scrutinize tribal actions not otherwise properly within its jurisdiction).

C. The Bureau does not have authority to determine election disputes under these circumstances.

Ms. Hendrix's complaint concerning the recent election is also not within the purview of BIA review. Ms. Hendrix was not eligible to run for tribal office because she lacked Comanche membership pursuant to Comanche Constitution, Article VI § 1. Ms. Hendrix's election dispute regarding her eligibility for candidacy and her right to be on the ballot was resolved by the Comanche Business Committee, the body charged with conducting elections and deciding election disputes pursuant to Comanche Constitution, Article VI § 7(b). The BIA is obliged to recognize the result of an election dispute resolved by a valid tribal forum. See Smalley v. Eastern Area Director 90 IBIA 79 (1990) (holding BIA was not authorized to resolve election disputes or determine ICRA violations associated with elections when such disputes are resolved in valid tribal forum).

D. The Bureau should immediately recognize its lack of authority to make a determination of this matter and withdraw its decision.

No matter how this matter is approached, Ms. Hendrix has asked the Bureau to step in and tell the Comanche Nation what to do in a membership dispute. "Whether federal intervention would be right, wrong, or well-intentioned, that intervention is exactly the kind of interference in tribal self-determination prohibited by Santa Clara." See Cahto Tribe v. Pacific Regional Director, 38 IBIA at 249 *(quoting* Ordinance 59 v. D.O.L. 163 F.3d at 1157). Accordingly, the Comanche Nation respectfully requests the Bureau to withdraw its "tentative" decision, or in the alternative, decide that no authority exists to make a determination in this matter.

II. The facts in this matter show that the Comanche Nation has acted properly.

The Comanche Nation respectfully disagrees with the conclusions drawn in the aforementioned letter. The Bureau has reached its "tentative" conclusion based only on the facts and arguments of Ms. Hendrix. Unfortunately, Ms. Hendrix's arguments concentrating on a lack of process or procedure do not paint a complete picture of the relevant factual information and fail to change the fact that she was not enrolled lawfully with Comanche Nation in 1976. We provide the following facts for your information and in order to show that the actions taken by the Comanche Business Committee were lawful, based on solid facts, and done in such a way as to provide Ms. Hendrix ample opportunity to respond and rebut to the conclusions of the Comanche Enrollment Department.

Ms. Hendrix was not lawfully enrolled as a Comanche tribal member in 1976.

The Comanche Enrollment Department upon performing a review of the membership files of Deborah K. Hendrix (nee Wells) (f/k/a Deborah K. Roberts) during an audit of all membership files, found evidence that Ms. Hendrix was a member of the Caddo Tribe at the time of her enrollment application for Comanche membership during 1975-76. Deborah K. Roberts, as Ms. Hendrix was known then, submitted a relinquishment of membership from Caddo Tribe dated December 11, 1975. (Attachment "A" - Roberts' Relinquishment.). Under Comanche Constitution, Article III § 3(b), and Enrollment Department custom, no "relinquishment" (or renouncement) of membership is required if an applicant is not a member of another tribe. After having reviewed dozens of membership files, the Enrollment Department verified that no applicants having multiple tribal-blood quantum, like Ms. Roberts - Hendrix, have ever been required to "relinquish membership" in another tribe in order to become eligible to enroll as Comanche, unless they were, in fact, "enrolled" with another tribe. In this instance, Ms. Hendrix (then Roberts) was wrongfully permitted to enroll as Comanche just prior to a major KCA judgment fund distribution.

Article III of the Comanche Constitution controls membership determinations for Comanche Nation. Under the provisions of the Comanche Constitution in effect during the time of Ms. Roberts' application, it was shown that she was descendant of a Comanche Allottee with sufficient blood quantum in accordance with Article III § I to be considered a member of the Comanche Indian Tribe. Nevertheless, Ms. Roberts was not eligible for membership in the Comanche

Nation based upon Comanche Constitution, Article III §§ 3(b), (c) and (d) which state: Any person eligible for membership in the Comanche Indian Tribe under the provisions of Section 1 of this Article shall be considered a member of the Comanche Indian Tribe unless: (b) The person is at the time of the adoption of this constitution an enrolled member of another tribe or has in the past received and accepted or, if a minor.whose parents or legal guardian has received and accepted for said minor, material or monetary benefits as a member of another Indian tribe and who fails or whose parents or legal guardian fails, if a minor, within ninety (90) days after the adoption of the constitution to declare in writing to the tribal chairman preference for membership in the Comanche Nation and at the same time in writing renounces membership in said other tribe. (c) The person after the adoption of this constitution by his or her affirmative action or, if a minor, by the affirmative action of his or her parents or legal guardian becomes a recognized or enrolled member of another Indian tribe with the full rights, privileges and powers of membership under the rules of said other tribe, which said affirmative [illegible]sequent nition or enrollment shall automatically effect a permanent withdrawal from membership in the Comanche Indian Tribe and a relinquishment of all rights and benefits there under; or (d) The person after the adoption of this constitution receives and accepts or, if a minor, his or her parents or legal guardian accepts for said minor, material or monetary benefits as a result of membership in another Indian tribe, which such receipt and acceptance shall automatically effect a permanent withdrawal from membership in the

Comanche Indian Tribe and a relinquishment of all rights and benefits there under. Comanche Const. art. III § 3(b), (c), and (d) (1967) (Emphasis added). The Comanche Constitution presumes a person is a member of the Comanche Nation when such person is qualified under Article III, Section 1. In Ms. Hendrix's circumstance, there is no dispute that she qualified under Section 1 by being a descendant of a Comanche Allottee having a minimum of 1/4 Comanche blood quantum under the 1967 Constitution. However, the Constitution mandates that such Comanche membership shall not be recognized if a person enrolls with, or receives material or monetary benefits from, another tribe in Sections 3(b), (c), and (d). As stated above, Ms. Roberts (nee Wells) was enrolled Caddo at the time of her application. There was no record of her having declared in 1967 that she preferred being Comanche as required by Section 3(b). Accordingly, Ms. Roberts was disqualified for membership with the Comanche Indian Tribe under Section 3(b) based upon her prior, and then current, membership with Caddo Indian Tribe and lack of renouncement in 1967.

In addition, it was determined by the CBC that in order for Ms. Roberts to be enrolled with the Caddo Indian Tribe in 1976 (at age 26), one of her parents must have enrolled her with Caddo as a minor or she enrolled Caddo as an adult. Either act would have "automatically effect [ed] a permanent withdrawal from membership" from Comanche Nation upon such Caddo enrollment under Section 3(c). (Emphasis added). Accordingly, the Enrollment Department concluded Ms. Roberts (a/k/a Hendrix) was wrongfully on the rolls of the Comanche Nation and asked the CBC to recognize such fact and enforce the membership provisions of Article III.

Therefore, the CBC's action on April 17, 2008, merely recognized the automatic permanent withdrawal from membership from the Comanche Nation (as mandated by the Constitution) which happened to Ms. Hendrix over thirty (30) years previously. The Constitution requires no specific process concerning such matters because a person enrolled with another tribe or taking benefits from another tribe was never capable of being a member of the Comanche Nation from that point forward. The Comanche Business Committee is the proper body to determine membership eligibility and to recognize, deny recognition of, or rescind recognition of membership.

The Comanche Constitution, Article VI § 7(a), authorizes the Comanche Business Committee ("CBC") "to establish and maintain the tribal membership roll." The Nation has interpreted such provision to also include general administration and enforcement of the constitutional membership provisions. It has been the historical, commonplace, and unchallenged practice of the Comanche Nation concerning membership for the CBC to decide to recognize, or to deny recognition of, membership in the Comanche Nation by adoption of a resolution during the course of a CBC meeting. It has been the unchallenged and historical practice of the CBC in discharging its constitutional responsibility under Articles III and VI to delegate to the Nation's Enrollment Department the responsibility to take applications, investigate eligibility, and make recommendations concerning such recognition, or lack thereof Upon adoption of a relevant "membership resolution," the Enrollment Department is charged with notifying applicants of the CBC's "recognition of membership" decision

regarding acceptance or rejection. If the applicant is rejected for recognition of membership, such person is advised of the procedure for appealing the adverse decision.

Just as with commonplace CBC actions in recognizing, or denying recognition of, membership based upon the information and recommendation provided by the Enrollment Department, it is not a violation of the Constitution, nor does it constitute a change or revocation of the constitutional membership rules (which are the exclusive province of the Tribal Council under Article V § 7(a», for the CBC to rescind recognition of membership. In doing so, the CBC merely administers and enforces the membership rules already in the Constitution, a duty each member of the CBC takes on when taking the oath required by Article XVI.

The Bureau's interpretation of Article VI § 7(a) is too narrow because it does not permit the CBC to perform its full responsibilities, duties which have been historically performed for over thirty (30) years. Determinations for recognition, denial or rescinding of recognition, of Comanche membership have never been the province of the Tribal Council, but have always been the province of the CBC. Nothing in the Constitution lays this responsibility on the Tribal Council. In fact, if it did, it would be an utterly impractical method of dealing with membership issues.

Likewise, the Bureau's determination that the CBC has violated Article V § 7(a) is groundless because the CBC did nothing "to change, modify, alter, or revoke [the] membership rules" contained in the Constitution. (Emphasis added). The CBC has merely administered and enforced the membership rules in Article III as it has always done. In this

instance, it was the Constitution that declared Ms. Roberts' acts over thirty (30) years ago had "automatically" and permanently withdrawn her membership from Comanche Nation. The CBC merely "recognized" such condition existed in April 2008.

The Bureau should recognize the CBC's reasonable interpretation of the Comanche Constitution as controlling.

The Bureau's interpretation of the Comanche Constitution is in derogation of the Nation's reasonable interpretation. Tribes have primary authority to interpret their own law and where the tribe has put forth a reasonable interpretation of its law, the Bureau must defer to that interpretation. See Paula Brady, Leta K. Jim, and Patricia Stevens v. Acting Phoenix Area Director, 30 IBIA 294 (1997). Once the tribe has offered a reasonable interpretation of its own law, the Bureau must defer to it even though the Bureau may also offer an equally reasonable interpretation of the tribal law. See San Manuel Band of Mission Indians v. Sacramento Area Director, 27 IBIA 204 (1995) *citing* Shakopee Mdewakanton Sioux Community v. Acting Minneapolis Area Director, 27 IBIA 163 (1995). Accordingly, the Bureau should defer to the CBC's interpretation of Articles III, V, and VI in this circumstance and conclude that the CBC has the authority to enforce membership provisions of the Constitution and did nothing to change such membership provisions.

D. The CBC acted during a properly convened meeting.

The CBC received a report and recommendation from the Enrollment Department concerning the

status of Ms. Hendrix's membership with the Comanche Nation. That report indicated that Ms. Hendrix was not lawfully enrolled as a member and recommended removal from the Comanche membership rolls. The CBC considered the report and took action while duly convened in "special" meeting on April 17, 2008. The "special" meeting was called by Chairman Coffey on April S, 2008, during a duly convened "regular" meeting of the CBC, pursuant to Article VI § 2, at which all seven (7) CBC members were present. (See Attachment "B" - excerpt of CBC Meeting transcript of Apr. 5, 2008). It is the common practice of the CBC for the Chairman to announce the convening of a "special" meeting when it is known at the time of a "regular" or previous meeting that such meeting will be necessary. This particular "special" meeting was announced to all CBC members more than ten (10) days in advance. Such notice satisfies the provision of Comanche Const. Article VI § 3 to provide adequate notice to CBC members of special meetings. All seven (7) members of the CBC were present during the entire Special Meeting on April 17, 2008, which is further evidence of proper notice. Thus, there can be no argument that there was a lack of notice.

The finalization of the FY 2009 budget was announced as the general reason for which the special meeting was called which also satisfies Article VI § 3. However, additional matters needing immediate action were added to the CBC Special agenda with no objections by any CBC members. The CBC has no rules forbidding the consideration of additional agenda items and has commonly endorsed the practice by polling the members for objections. Some of the additional agenda items were the consideration of membership eligibility of eleven (11)

Comanche members, one of whom was Ms. Hendrix. The CBC approved the resolution striking Ms. Hendrix from the membership rolls by a vote of 5 for, 0 against, 2 abstentions. Accordingly, there are no grounds to question the validity of the Special CBC meeting or the action taken therein concerning Ms. Hendrix's lack of Comanche Nation membership.

E. Ms. Hendrix received notice of appeal rights and was provided ample opportunity to respond and rebut the membership recognition decision.

Then Nation provided Ms. Hendrix adequate due process, just not the due process she would have preferred. As noted above, the Comanche Constitution caused an automatic permanent withdrawal from Comanche membership at the moment Ms. Wells - Roberts (Hendrix) was enrolled with the Caddo Indian Tribe. (See Article III § 3(c». The CBC action merely recognized the pre-existing situation on April 17, 2008, which was a fulfillment of the self-executing provision of the Comanche Constitution. In case the CBC was factually wrong, it decided to provide the former member an opportunity to respond and rebut the evidence. Ms. Hendrix was delivered a letter on April 18, 2008, advising her of the membership action and her right to appeal. (See Attachment "C" - Letter from Comanche Nation to Hendrix dated Apr. 18, 2008). The letter clearly states the basis for the decision and offered her thirty (30) days in which to request and appeal and to present evidence that would support a reversal. Ms. Hendrix requested an appeal hearing on May 2, 2008. (See Attachment "D" - Hendrix Appeal Request). The appeal hearing was granted and set on May 29, 2008. (See - Attachment "E" Comanche to Hendrix Hearing Notice). For her cause, Ms. Hendrix submitted a document from Caddo Indian Tribe that

stated, "Deborah Hendrix is not or has never been enrolled with the Caddo Nation of Oklahoma." (See Attachment "F" - Caddo Nation Document dated Apr. 18, 2008) (Emphasis added). This document was provided to the CBC at the hearing on May 29, 2008. Interestingly, Ms. Hendrix spokesperson (Ms. Attocknie) ~ to the CBC in open meeting on M~ {3, 2008, that Ms. Hendrix had received a judgment fund distribution as a member Caddo Indian Tribe of approximately $400 a long time ago. The Enrollment Department subsequently obtained evidence that "Deborah Wells Roberts" (Hendrix) had received a residence from the Caddo Housing Authority of the Caddo Indian Tribe in 1972. (See Attachment "G" Housing Authority statement dated May 29, 2008). This fact was further verified by location of the deed bearing her name and her Caddo Enrollment No. 2414. (See Attachment "H" - Corporation Warranty Deed dated Apr. 7 1993). In addition, the CBC gave Ms. Hendrix and her representative unfettered opportunity to present any other evidence or arguments why she should be enrolled with the Comanche Nation.

Conclusion

The CBC is still considering the evidence presented by Ms. Hendrix in order to determine if her declaration from Caddo Enrollment of having never been enrolled as "Hendrix" is sufficient to rebut the other evidence presented which consists of a relinquishment from Caddo, acknowledgement of per capita receipt from a Caddo judgment fund, and receipt of Caddo housing benefits which show her enrollment with Caddo in the 1970's. It should be noted that there is no contention that Ms. Hendrix is currently enrolled with the Caddo (dull enrollment). Such contention is the basis for rescinding

recognition of Comanche membership for two (2) of Hendrix's children, a matter not raised by your letter of May 27, 200S. The CBC has not rendered a decision on the Hendrix matter but has scheduled close meeting on June 19, 2008, to consider taking action on the matter. Therefore, the Comanche Nation kindly requests that the Bureau rescind its decision or Nation may be forced to consider additional legal avenues to prevent such encroachment.

Respectfully submitted,

BY: Kirke KickingBird,
HOBBS, STRAUS, DEAN &
WALKER, LLP

cc: Wallace Coffey, Chairman
Deborah Hendrix
Alan Woodcock, Field Solicitor

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

DEBORAH HENDRIX, et al, Plaintiffs,	)	
v.	)	Case No. CIV-08-605 M
WALLACE COFFEY, et al, (Comanche Business Committee members), and DONNA WAHNEE, Comanche Enrollment Director, KIRKE KICKINGBIRD, et al, Attorneys, Defendants.	)	

DECLARATION OF DONNA WAHNEE

Donna Wahnee declares, pursuant to 28 U.S.C. § 1746, as follows:

1. I am the Director of the Comanche Nation Enrollment Department and have been so serving since my appointment on or about September 17, 2007. My address is 584 NW Bingo Road, Lawton, Oklahoma 73502.

2. I am fully competent to make this Declaration I have personally inquired as to the facts stated herein and, if called to do so, could and would competently testify to the facts set forth herein. I am providing this Declaration in support of the Defendants' request to deny injunctive relief in federal court. To my knowledge, all of the facts stated in this Declaration are true and correct.

3. During the months of October and November 2007, I was asked by the Chairman to attend official meetings of the Comanche Business Committee in my capacity as Director of the Enrollment Department in order to be available to

answer questions regarding enrollment eligibility of those persons being considered for recognition or denial of membership with the Comanche Nation.

4. As a result of being involved in said meetings, I have specific recollection of observing Deborah Hendrix, Phyllis Attocknie, and others request the Comanche Business Committee in open meetings to direct me to perform an audit of the entire Comanche membership files (numbering approximately 14,000) in order to discover any individuals who may have been unlawfully recognized as members of the Comanche Nation and to present my findings to the Comanche Business Committee for action.

5. In addition, Deborah Hendrix and Phyllis Attocknie visited the Comanche Enrollment Department offices six or seven times over the course of three (3) months to urge me and my staff to check the enrollment eligibility of members allowed to enroll by the former Enrollment Director, as well as a certain Comanche Business Committee member, all of which I did. I found that the Comanche Business Committee member they asked me to investigate was, in fact, properly enrolled with the Comanche Nation.

6. Concurrent with the aforesaid request and during the process of becoming familiar with the Enrollment Department files and procedures, I discovered irregularities in many of the Comanche membership files. This discovery led me to investigate the propriety of actions the former Enrollment Director took in recognizing the Comanche membership of hundreds of individuals.

7. As the Director of Comanche Nation Enrollment Department, I am familiar with the provisions of the Comanche Constitution regarding membership with the Comanche Nation, specifically Article III thereof. In essence, Article III describes who may be considered a member of the Comanche Nation and what actions disqualify individuals from membership. It also provides two exceptions to disqualification by providing young adults an opportunity to switch enrollment between their 18th and 19th birthdays and providing for an "open enrollment" for any individual to switch from another tribe between February and August 2002.

8. During my general investigation of the Comanche Nation membership files, I found eight (8) individuals who had been added to the roll with the Comanche Nation in 2006 under suspicious circumstances. I found that each of the eight (8) individuals met the criteria for being considered a member of the Comanche Nation under Article III § 1. However, each of the eight (8) individuals were enrolled with other tribes prior to their application for Comanche Nation membership and further found that each of them were still enrolled with their previous tribe. Article III § 3(c) of the Comanche Constitution prohibits the enrollment of an individual who was a member of another tribe prior to application for enrollment with Comanche Nation and prohibits an individual maintaining dual enrollment with another tribe. Such prior enrollment or dual enrollment "automatically effect[s] permanent withdrawal of membership with the Comanche Nation."

9. In March 2008, I was asked to review the membership file of Deborah Hendrix and her two children, which I honored. I found credible information in our membership files showing that Deborah (Wells Roberts) Hendrix and her two children were not lawfully enrolled with the Comanche Nation.

10. The file of Deborah Hendrix contained a Relinquishment signed by Deborah K. Roberts (as she was then known) relinquishing membership from the Caddo Indian Tribe in 1976. (See Attachment A, "Roberts Relinquishment"). It is and has been the policy of the Comanche Nation Enrollment Department to not require persons eligible for multi-tribal enrollment to submit Relinquishments unless such person was in fact enrolled with another tribe. Ms. Roberts met the criteria for being considered a member of the Comanche Nation under Article III § 1. However, Article III § 3(c) of the Comanche Constitution prohibits the enrollment of an individual who was a member of another tribe prior to application for enrollment with Comanche Nation. Such prior enrollment "automatically effect[s] permanent withdrawal of membership with the Comanche Nation."

11. The files of Angie Revell and Philip Hendrix III each contained a Relinquishment signed by their mother, Deborah K Hendrix, on their behalf in 1994, relinquishing membership from the Caddo Indian Tribe. (See Attachment B, "Revel Relinquishment" and Attachment C, "Hendrix Relinquishment"). Said files also included a "Benefits Statement" from the Caddo Indian Tribe for the two

children showing them as recognized members, but having received no benefits. (See Attachment D, "Benefit Statement"). It is and has been the policy of the Comanche Nation Enrollment Department to not require persons eligible for multi-tribal enrollment to submit Relinquishments or Benefits Statements unless such person was in fact enrolled with another tribe. Both children met the criteria for being considered members of the Comanche Nation under Article III § 1. However, Article III § 3(c) of the Comanche Constitution prohibits the enrollment of an individual who was a member of another tribe prior to application for enrollment with Comanche Nation. Such prior enrollment "automatically effect[s] permanent withdrawal of membership with the Comanche Nation."

12. I brought my findings concerning the illegal enrollment of the eight (8) individuals plus Ms. Hendrix and her children to the Special Meeting of the Comanche Business Committee on April 17, 2008. At the same time I also advised the Comanche Business Committee that the Enrollment Department staff was actively investigating the lawfulness of hundreds of suspicious Comanche membership determinations that were made during the previous seven (7) years by the former Enrollment Director as well as others as the staff became aware of them.

13. The Comanche Business Committee approved Resolution No. 55-08 disenrolling the eight (8) individuals, Resolution No. 56-08 disenrolling Deborah Hendrix, and Resolution No. 57-08 disenrolling Angie Revell and Philip Hendrix III, all of which recognized and enforced the Comanche Constitution's automatic

permanent withdrawal of membership from the Comanche Nation under Article III § 3. (See Attachments E, F, and G).

14. During the month of May 2008, I received from the Housing Authority of the Caddo Indian Tribe two (2) documents showing that Deborah K. Roberts (a/k/a Hendrix) had received a house because of being a member of the Caddo Indian Tribe in 1972, including her Caddo Indian Tribe enrollment file number (#2414). (See Attachment H Caddo Housing statement, and Attachment I, Corporate Deed). Article III, § 3(d) of the Comanche Constitution prohibits enrollment of an individual who received benefits as a member of another tribe prior to application for enrollment with Comanche Nation. Such prior receipt of benefits "automatically effect[s] permanent withdrawal of membership with the Comanche Nation."

15. Declarant has nothing further to state.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on this 24th day of June 2008.

DONNA WAHNEE

United States Department of the Interior

Bureau of Indian Affairs
Anadarko Agency
P. O. Box 309
Anadarko, Oklahoma 73005

EPLY REFER TO:
ibal Government Services

TO WHOM IT MAY CONCERN:

This is to certify that the records of this office show that Deborah Kay Hendrix

is of 3/4 degree Indian blood of the Comanche/Caddo Tribes.

Date of Birth 06/21/1949. He/She is further certified to be an enrolled member of the

Comanche Tribe and an Indian as defined by the Secretary of the Interior.

Tribal roll no. 4568 . By Act of June 2, 1924 (43 Stat. 253), all Indians born

within the territorial limits of the United States were declared to be citizens of the United States.

9/5/08
Date

Superintendent

United States Department of the Interior

Bureau of Indian Affairs
Anadarko Agency
P. O. Box 309
Anadarko, Oklahoma 73005

IN REPLY REFER TO:
Tribal Government Services

TO WHOM IT MAY CONCERN:

This is to certify that the records of this office show that Angie Annette Revell

is of 5/8 degree Indian blood of the Comanche/Caddo Tribes.

Date of Birth 06/04/1983. He/She is further certified to be an enrolled member of the

Comanche Tribe and an Indian as defined by the Secretary of the Interior.

Tribal roll no. 11318 . By Act of June 2, 1924 (43 Stat. 253), all Indians born

within the territorial limits of the United States were declared to be citizens of the United States.

9-5-08
Date

Superintendent

United States Department of the Interior

Bureau of Indian Affairs
Anadarko Agency
P. O. Box 309
Anadarko, Oklahoma 73005

REPLY REFER TO
Tribal Government Services

TO WHOM IT MAY CONCERN:

This is to certify that the records of this office show that Phillip Jesse Hendrix, III

is of 5/8 degree Indian blood of the Comanche/Caddo Tribes.

Date of Birth 12/23/1986. He/She is further certified to be an enrolled member of the

Comanche Tribe and an Indian as defined by the Secretary of the Interior.

Tribal roll no. 11319. By Act of June 2, 1924 (43 Stat. 253), all Indians born

within the territorial limits of the United States were declared to be citizens of the United States.

9-5-08
Date

Superintendent

CERTIFICATE OF COMPLIANCHE

No.-09-

Deborah K. Hendrix, et al
Petitioner

v.

Wallace Coffey, et al
Respondent

As required by supreme Court Rules 33.1 (h). I certify that the petition for a Writ of Certiorari contains 3,717 words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1 (d).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 11, 2009

Deborah Hendrix

CERTIFICATE OF COMPLIANCHE

No.·09·

Deborah K. Hendrix, et al
Petitioner

v.

Wallace Coffey, et al
Respondent

As required by supreme Court Rules 33.1 (h). I certify that the petition for a Writ of Certiorari contains petition that are exempted by Supreme Court Rule 3,717 words, excluding the parts of the 33.1 (d).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 31, 2009

Deborah Hendrix

08-1306

~~No. 08-0101~~ 2

Supreme Court, U.S.
FILED
JUN 25 2009
OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

DEBORAH K. HENDRIX; ANGIE REVELL;
PHILIP HENDRIX, III; PHYLLIS ATTOCKNIE,
Petitioners,

v.

WALLACE COFFEY, RONALD REDELK, EDDIE MAHSEET, LANNY ASEPERMY, JANICE BIGBEE, individually, as citizens of the United States and State of Oklahoma, and as members of the Comanche Business Committee; DONNA WAHNEE, individually, Tribal Enrollment Director, as a citizen of the United States and State of Oklahoma, and as a member of the Comanche Business Committee; KIRKE KICKINGBIRD; HOBBS, STRAUS, DEAN & WALKER, LLP
Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit

---

BRIEF IN OPPOSITION

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QUESTIONS PRESENTED

1. Whether Petitioners have presented compelling reasons to grant the Petition, where the Tenth Circuit's Opinion affirming the district court's order dismissing their action for lack of subject-matter jurisdiction does not conflict with a decision of this Court or a Court of Appeals, and does not or fails to implicate an important federal question that has not been settled by this Court.

2. Whether Federal Courts lack subject-matter jurisdiction over a dispute involving membership in an Indian tribe.

3. Whether an Indian tribe's sovereign immunity from suit has been abrogated by the Indian Civil Rights Act for membership determinations.

4. Whether an Indian tribe's sovereign immunity from suit has been abrogated by other federal law for membership determinations.

PARTIES TO THE PROCEEDING

Pursuant to Rule 14.1(b), the following list represents all the parties appearing here and before the United States Court of Appeals for the Tenth Circuit:

Petitioners here and Appellants below:

DEBORAH K. HENDRIX; ANGIE REVELL; PHILIP HENDRIX, III; PHYLLIS ATTOCKNIE,

Respondents here and Appellees below:

WALLACE COFFEY, RONALD REDELK, EDDIE MAHSEET, LANNY ASEPERMY, JANICE BIGBEE, individually, as citizens of the United States and State of Oklahoma, and as members of the Comanche Business Committee; DONNA WAHNEE, individually, Tribal Enrollment Director, as a citizen of the United States and State of Oklahoma, and as a member of the Comanche Business Committee; KIRKE KICKINGBIRD; HOBBS, STRAUS, DEAN & WALKER, LLP

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IN THE

Supreme Court of the United States

No. 08-6161

DEBORAH K. HENDRIX; ANGIE REVELL; PHILIP HENDRIX, III; PHYLLIS ATTOCKNIE,
Petitioners,

v.

WALLACE COFFEY, RONALD REDELK, EDDIE MAHSEET, LANNY ASEPERMY, JANICE BIGBEE, individually, as citizens of the United States and State of Oklahoma, and as members of the Comanche Business Committee; DONNA WAHNEE, individually, Tribal Enrollment Director, as a citizen of the United States and State of Oklahoma, and as a member of the Comanche Business Committee; KIRKE KICKINGBIRD; HOBBS, STRAUS, DEAN & WALKER, LLP
Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit

BRIEF IN OPPOSITION

INTRODUCTION

Petitioners have presented no "compelling reasons" for their Petition for Writ of Certiorari to be granted as required by this Court. Sup. Ct. R. 10. The "character of the reasons" for which the Court will

grant review include a conflict between circuits concerning an important matter, a departure from the accepted and usual course of judicial proceedings so significant that the Court's supervisory powers should be involved, a decision on an important question of federal law that has not (but should be) settled by this Court, or a decision on an important federal question which conflicts with the relevant decisions of this Court. *Id.* at (a), (b), and (c). The Petitioners have utterly failed to establish any one of these criteria. A petition for writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law. *Id.* The petition should be denied.

STATEMENT OF THE CASE

Petitioners, filed this suit pro se in the district court on June 11, 2008. They filed an amended Complaint pro se on June 23, 2008.[1] The amended complaint centers around official governmental actions by the Comanche Business Committee (hereinafter "Business Committee") that resulted in the disenrollment of three of Petitioners; Deborah Hendrix, Angie Revell, and Phillip Hendrix III. The fourth Petitioner (Phyllis Attocknie), a member of the Comanche Nation, appears to seek relief related to, and in sympathy with, the claim of the other three Petitioners, although, no adverse action has been taken, nor alleged, regarding her tribal membership.

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[1] Petitioners added the Comanche Nation's legal counsel, Kirke Kickingbird and Hobbs, Straus, Dean & Walker, LLP, to the caption of their amended complaint, but the amended complaint contained no allegations with regard to Kickingbird and Hobbs Straus, and accordingly failed to state a claim even under the relaxed standards of Fed. R. Civ. P. 8.

In the amended complaint, which was accompanied by a motion for temporary restraining order, Petitioners asked the district court to construe the Comanche Nation Constitution and other Comanche law, overturn the findings of fact of a tribal forum, and declare that Hendrix, Revell, and Hendrix III were lawful members of the Comanche Nation entitled to material and monetary tribal benefits. They also requested the district court to issue a temporary injunction to prevent recognition of the outcome of a tribal election, based on allegations that Petitioner Hendrix was not permitted to participate in the election process.

Respondents filed a response to the motion for temporary restraining order and a motion to dismiss for lack of jurisdiction, and Petitioners filed their response. On July 10, 2008, after consideration of the parties' briefs, the district court granted the motion to dismiss finding it lacked subject-matter jurisdiction over the matter. This ruling was based on the district court's determination that Petitioners' due process and equal protection claims concerning tribal membership eligibility and election participation involve an internal tribal dispute that is not subject to federal court review, and the court's further determination that the Indian Civil Rights Act ("ICRA") does not establish subject-matter jurisdiction over such disputes. The district court, apparently finding it unnecessary, never reached the Respondents' further arguments concerning sovereign immunity and failure to state a claim for which relief could be granted under Fed. R. Civ. P. 12(b)(6).

The Petitioners filed a notice of appeal with the United States Court of Appeals for the Tenth Circuit on August 1, 2008. The Tenth Circuit found, after

carefully reviewing the "Districts Courts order in light of the parties arguments, the record on appeal, and the governing law", that as observed by the district court, "this is a dispute over tribal membership, which is an internal tribal concern." The Tenth Circuit further concurred with the district court that the "ICRA does not create a federal cause of action either in its own right or in conjunction with other federal law," and that Petitioners', "due process and equal protection claims concerning tribal membership eligibility, election-participation, and petitioning privileges fail because there is no federal forum created by the ICRA." (Order and Judgment 2) The Tenth Circuit affirmed the judgment of the district court.

Petitioners' motion for en banc review was denied because Petitioners failed to comply with the requirements of Fed. R. App. P. 35(b).

JURISDICTION

The Petition for Writ of Certiorari was filed on March 11, 2009. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

REASONS FOR DENYING REVIEW

The decisions below do not conflict with a decision of this Court or any Court of Appeals, nor do they implicate a federal question that has not been decided by this Court. On the contrary, the decisions below follow this Court's precedent as announced in *Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1978), which has been settled law on the issues herein. Furthermore, all federal circuits having addressed the same issues concerning the absence of federal court jurisdiction over tribal membership disputes

are consistent with the decisions below. There are no compelling reasons for this Court to overrule its precedent. Accordingly, Petitioners have not carried their burden to demonstrate "compelling reasons" for the Petition to be granted by the Court under Rule 10.

I. This Court's Precedent and Federal Circuits Decisions Agree There Is No Subject-Matter Jurisdiction Over a Dispute Involving Membership in an Indian Tribe.

The lower courts correctly determined that this case centers around tribal membership, which is a matter outside the purview of the federal courts. Contrary to Petitioners' assertion that federal courts have jurisdiction over a matter involving membership in the Comanche Nation, tribal membership is an internal tribal matter that is not subject to federal court jurisdiction. Fundamental federal law recognizes that Indian tribes have the right to make their own rules and be governed by them. *Williams v. Lee*, 358 U.S. 217, 220 (1959). This includes the right to determine membership in the tribe. A "tribe's right to define its own membership for tribal purposes has long been recognized as central to its existence as an independent political community." *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 72, n.32 (1978); *see also United States v. Wheeler*, 435 U.S. 313, 323, n. 18 (1978); *Montana v. United States*, 450 U.S. 544, 564 (1981). The circuits that have addressed the issue of federal jurisdiction in tribal membership matters are in accord with *Santa Clara Pueblo* and with each other.

Before the *Santa Clara Pueblo* decision, in *Martinez v. S. Ute Tribe*, 249 F.2d 915, 920–21 (10th Cir.

1957) the Tenth Circuit expressly found that it lacked federal-question jurisdiction in a case involving tribal membership. The Tenth Circuit explained that courts "have consistently recognized that in absence of express legislation by Congress to the contrary, a tribe has the complete authority to determine all questions of its own membership, as a political entity." *Id.*; *see also Fletcher v. United States*, 116 F.3d 1315, 1326–27 (10th Cir. 1997) ("Indian tribes are separate sovereigns with the power to regulate their internal and social relations, including their form of government and tribal membership.")

Similarly, the Ninth Circuit has also found, prior to *Santa Clara Pueblo*, that a dispute involving membership in a tribe does not present a federal question. *Fondahn v. Native Village of Tyonek*, 450 F.2d 520, 522 (9th Cir. 1971). In addition, the Ninth Circuit recently affirmed a district court's dismissal of a case brought against officials of the United States Department of the Interior, Bureau of Indian Affairs, citing to *Santa Clara Pueblo* for the proposition that tribal membership is exclusively within the province of the tribe and the federal government had no place in the scheme. *See Williams v. Gover*, 490 F.3d 785, 791 (9th Cir. 2007) (finding that the Bureau could not have violated Fifth Amendment rights of Indians desiring tribal membership because the Bureau could not have defined tribal membership even if it wanted to).

In the Second Circuit, in *Poodry v. Tonawanda Band of Seneca Indians*, 85 F.3d 874 (2nd Cir. 2006), members of the Tonawanda Band filed a habeas corpus claim in response to their punishment of banishment and loss of membership for treason. The Second Circuit affirmed the principles of *Santa Clara*

Pueblo as related to tribal-membership determinations. Because the claim of banishment as a punishment for treason implicated the habeas-corpus provision of the ICRA (25 U.S.C. § 1303), which expressly creates a federal cause of action, the court remanded to the district court for further proceedings.[2]

Similarly, the Eighth Circuit agreed with a tribal court ruling that the "great weight of authority holds that tribes have exclusive authority to determine membership issues" and "there is perhaps no greater intrusion upon tribal sovereignty than for a federal court to interfere with a sovereign tribe's membership determinations." *Smith v. Babbitt*, 100 F.3d 556, 559 (8th Cir. 1996). In affirming dismissal of a claim regarding the distribution of the tribal gaming revenues, the court, citing *Santa Clara Pueblo*, found it lacked jurisdiction over what was essentially a dispute over tribal-membership determinations.

Finally, the Fifth Circuit has also concluded that tribes "have the right to control their membership roster, and any federal litigation on that subject would disrupt the conduct of intratribal affairs, an area that the federal government has left to the tribe itself." *Apodaca v. Silvas*, 19 F.3d 1015, 1016 (5th Cir. 1994) citing *Santa Clara Pueblo* at 436 U.S. 59–60. Counsel for Respondents have found no case to the contrary in any other circuit. Accordingly, there is no "split" among the circuits on the issue raised in this matter.

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[2] Petitioners have not alleged that they have suffered the punishment of banishment. Nor do Petitioners assert that the termination of their Comanche Nation membership has affected their liberty interests in traveling freely in and around the Comanche Nation.

II. The Holding in *Santa Clara Pueblo* Is Controlling in this Matter and Deserves Stare Decisis Deference.

While the arguments are difficult to discern, Petitioners appear to argue that the status of the Comanche Nation is somehow different from that of other tribes affected by the *Santa Clara Pueblo* case (Appellant Br. p. 5). This argument appears solely based on Petitioners' general misunderstanding of federal laws affecting Indian tribes. Petitioners offer two theories for this argument.

Petitioners' first theory concerning the asserted inapplicability of the *Santa Clara Pueblo* case is based on the Act of March 3, 1871, 16 Stat. 544, 566, codified at 25 U.S.C. § 71, which ended the treaty-making period for all Indian tribes. Petitioners also challenge the applicability of *Santa Clara Pueblo* on the subsequent allotment acts related to Comanche lands and a Supreme Court decision in *Lone Wolf v. Hitchcock*, 187 U.S. 553 (1903) (construing the plenary authority of Congress over Indian affairs). Petitioners suggest that these laws and the Court decision replaced tribal authority with complete federal authority over Comanche lands and affairs (Appellant Br. pp. 5–9). Contrary to this theory, there is nothing in the 1871 Act, which applied to all tribes, that singles out the Nation or officials for special treatment apart from other tribes. Furthermore, while the 1871 Act changed the terminology used for documentation of government-to-government agreements between the federal government and Indian tribes, the basic federal/tribal relationship remained unchanged, and the federal government continued to negotiate agreements with tribes, including the Comanche Nation, which were

then enacted into law by Congress. *See Cohen's Handbook of Federal Indian Law* (Nell Jessup Newton *et al.* eds. 2005 ed.) 395, § 5.01[2] ("*Cohen's*"). There is likewise nothing in the Comanche Nation's allotment legislation or the *Lone Wolf* decision setting the governmental status of the Comanche Nation apart from other tribes or replacing the authority of the Comanche Nation over membership determinations with that of the federal government.

The Comanche Nation is a federally recognized Indian tribe, with the same status as other federally recognized Indian tribes, including the Santa Clara Pueblo. Petitioners have attempted to distinguish the Comanche Nation's status from that of other tribes by stating, incorrectly, that federal allotment legislation caused the Comanche Nation to have "no jurisdiction whatsoever" over Comanche trust allotments. (Appellant Br. at 9). While it is difficult to make a connection between that grave misstatement and the issue of federal subject-matter jurisdiction in the present case, Respondents nonetheless find it necessary to correct it.

As the Court determined nearly twenty years ago, lands held in trust for an Indian tribe in Oklahoma are Indian country over which tribes exercise jurisdiction, regardless of whether those lands constitute a "formal" reservation. *See Okla. Tax Comm'n v. Sac and Fox Nation*, 508 U.S. 114, 124–125 (1993); *Okla. Tax Comm'n v. Citizen Band of Potawatomi*, 498 U.S. 505, 511 (1991). It is well-established that a wide range of activities on Indian country lands in Oklahoma, including the Nation's Indian country lands, are subject to federal and tribal criminal and civil jurisdiction. *Id.*; *see also Mustang Prod. Co. v. Harrison*, 94 F.3d 1382 (10th Cir. 1988). Congress has also

made it clear that tribes have governmental authority over trust lands, including trust allotments held for the benefit of tribal members. *See, e.g.*, 25 U.S.C. § 2703(4)(B).

Consistent with these legal precedents, federal regulations specifically include the Comanche Nation within the Court of Indian Offenses system (also known as "CFR Courts"). 25 C.F.R. §§ 11.100, 11.102. Those regulations are intended to establish "adequate machinery" for the administration of justice in areas of Indian country where tribes, including the Comanche Nation, retain adjudicatory jurisdiction. Like the federal courts, the regulations recognize the importance of tribal governmental authority by prohibiting the Court of Indian Offenses from adjudicating internal tribal government disputes, absent grant of such authority by resolution of the governing tribal body. 25 C.F.R. § 11.118(b); *see also* 73 Fed. Reg. 39,857 (July 11, 2008).

Petitioners' second theory regarding the asserted inapplicability of *Santa Clara Pueblo* to the present case is based on their claim that amendments to the Indian Self-Determination and Education Assistance Act of 1975, codified at 25 U.S.C. §§ 450 *et seq.* ("ISDEAA"), somehow affected the validity of the *Santa Clara Pueblo* decision as applied to actions of Comanche Nation governmental officials (Appellant Br. p. 14). However, they do not identify any specific provisions of the ISDEAA in support of that argument, as there are none. In fact, federal law prohibits federal government from treating the Comanche Nation differently than other tribes. *See* 25 U.S.C. § 476(f), (g).

Petitioners' attempts to distinguish the legal status of the Comanche Nation from the other tribes for

purposes of the Supreme Court's ruling in *Santa Clara Pueblo* are simply not supported by governing law. The *Santa Clara Pueblo* ruling that the federal courts have no subject-matter jurisdiction over disputes involving tribal membership is controlling in this case.

Stare decisis requires compelling reasons for overruling existing precedent. *See, e.g., Dickerson v. United States*, 530 U.S. 428, 443 (2000); *United States v. IBM*, 517 U.S. 843, 856 (1996). This Court's ruling in *Santa Clara Pueblo* has been settled law for over thirty (30) years, and deserves particularly strong stare decisis deference. *See, e.g., Sheppard v. United States*, 544 U.S. 13, 23 (2005); *Hilton v. South Carolina Pub. Rys. Comm'n*, 502 U.S. 197, 205 (1991). "The rule of law demands that adhering to . . . prior case law be the norm. Departure from precedent is exceptional, and requires special justification." *Randall v. Sorrell*, 548 U.S. 230, 244 (2006). Petitioner has not suggested any good rationale for discarding *Santa Clara Pueblo*. The application of stare decisis is especially compelling where, as here, Congress has not acted to reject this Court's interpretation and the principle has become settled through reiteration over a long period of time.

III. The Indian Civil Rights Act Does Not Establish Federal Subject-Matter Jurisdiction in a Suit Concerning Governmental Actions by Tribal Officials.

The lower Courts correctly determined that the Indian Civil Rights Act ("ICRA"), 25 U.S.C. §§ 1301, *et seq.*, does not establish federal subject-matter jurisdiction over challenges to governmental actions involving membership. Contrary to Petitioners'

argument on appeal, 25 U.S.C. § 1302(8), which provides that tribes shall not deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law, does not create a federal cause of action either in its own right, or in conjunction with other federal law. *See Santa Clara Pueblo*, 436 U.S. at 52; *accord Ordinance 59 Ass'n v. U.S. Department of the Interior*, 163 F.3d 1150, 1155 (10th Cir. 1998). As recognized by the district court, the Court held in *Santa Clara Pueblo* that, with the exception of certain habeas corpus matters[3], the ICRA does not authorize federal civil actions against either a tribe or its officers. *Santa Clara Pueblo*, 436 U.S. at 59, 72. The Supreme Court observed in *Santa Clara Pueblo* that "the structure of the statutory scheme and the legislative history of [25 U.S.C. § 1302] suggest that Congress' failure to provide remedies other than habeas corpus was a deliberate one." *Id.* at 61. The Court also noted that establishment of a federal cause of action for the enforcement of rights under the ICRA "plainly would be at odds with the congres-

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[3] The ICRA's only private right of action in federal court arises when an Indian is detained in violation of his rights and seeks a writ of habeas corpus under 25 U.S.C. § 1303. However, the ICRA habeas corpus provision was not intended to provide broader rights to Indians detained by tribes than the rights of non-Indians detained by states or the federal government. "[O]ne seeking to invoke jurisdiction of a federal court under § 1303 must demonstrate . . . a severe actual or potential restraint on liberty." *Poodry v. Tonawanda Band of Seneca Indians*, 85 F.3d 874, 879–80 (2d Cir. 1996), *cert. denied*, 519 U.S. 1041 (1996). In the present case, Petitioners' did not raise issues concerning habeas corpus on appeal, and would not have been successful in doing so, because they failed to allege or demonstrate any "restraint on liberty" as a result of the actions of Respondents.

sional goal of protecting tribal self-government." *Id.* at 64. This Court's precedent in *Santa Clara Pueblo*, and followed by the Lower Courts, that the ICRA does not establish subject-matter jurisdiction in federal courts has been settled law for over 30 years.

Petitioners state that the Comanche Nation has no tribal court and that the CFR Court has no jurisdiction over civil-rights issues, and conclude that their only remedy is in federal court. (Appellant Br. pp. 17, 25; Pet'r Pet. pp. 9, 14). This reasoning is unsound for several reasons. Petitioners overlook the fact that federal courts do not acquire jurisdiction by default, and that persons seeking to enforce the ICRA can do so only in tribal court or other internal tribal forums. *See Santa Clara Pueblo*, 436 U.S. at 65.[4] Petitioners also ignore the fact that they were provided an opportunity for a hearing before a tribal forum (Appellee Supp. Application pp. 38, 39). Federal courts recognize non-judicial tribal forums or institutions as competent law-applying bodies. *See Ordinance 59 Ass'n*, 163 F.3d at 1155. The existence and utilization of a tribal forum not preferred by Petitioners does not create federal court jurisdiction.

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[4] A federal court has been determined to have jurisdiction to hear a suit against an Indian tribe under 25 U.S.C. § 1302 based on the absence of a tribal forum on one occasion. *See Dry Creek Lodge, Inc. v. Arapaho and Shoshone Tribes*, 623 F.2d 682 (10th Cir. 1980), cert. denied, 449 U.S. 1118 (1981). The *Dry Creek* case concerned a dispute with a non-Indian, and did not involve internal tribal affairs. Furthermore, the *Dry Creek* rule has "minimal precedential value", and the Tenth Circuit has never held it to be applicable other than in the *Dry Creek* decision itself. *Miner Elec., Inc. v. Muscogee (Creek) Nation*, 505 F.3d 1007 (10th Cir. 2007).

IV. There Are No Other Federal Laws That Establish Subject-Matter Jurisdiction in a Suit Concerning Governmental Actions by Tribal Officials.

In order for a federal court to have federal-question jurisdiction "[a] right or immunity created by the laws of the United States must be an essential element of the plaintiff's cause of action." *Martinez v. Southern Ute Tribe*, 273 F.2d 731, 734 (10th Cir. 1960) (internal citations and notes omitted), *cert. denied*, 363 U.S. 847 (1960) (no federal-question jurisdiction even where Congress authorized distribution of funds to tribal members and the Secretary, under another statute, had included plaintiff in a roll of tribal membership). The mere statement that a construction of certain federal statutes is involved in a case is not sufficient to bestow federal-question jurisdiction, and Indians have no greater rights to sue in federal court than any other litigants. *Id.* at 734.

Petitioners have argued below that they have vested rights regarding Indian allotments subject to the due-process clause of the Fifth Amendment of the United States Constitution (Appellant Br. pp. 16, 21–22). They fail to explain how loss of lands could result from revocation of tribal membership, because there is simply no legal support for this argument as the lower courts recognized. Petitioners also theorize that federal employee "census recordings" for Comanche allotment purposes cause tribal membership to be "strictly federal in nature" and protected by the Fifth Amendment of the United States Constitution (Appellant Br. pp. 15, 20). Contrary to such assertions, it is the Comanche Nation Constitution, not the U.S. Constitution or federal laws, which contains requirements for tribal citizenship, expressly recog-

nizes the duty and authority of the Business Committee to maintain the tribal membership roll, and does not require or authorize any federal involvement in tribal membership matters (Comanche Nation Const. art. III). Thus, tribal membership actions are not federal actions implicated by the due-process clause.

The Fifth Amendment, the Fourteenth Amendment, and general civil rights laws govern federal and state action, not action by tribal governmental officials. In order to establish a claim under the Civil Rights Act of 1871, (codified at 42 U.S.C. § 1983), a plaintiff must show that the defendant deprived him of a constitutional right "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory." *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 150 (1970). "[I]t has been understood for more than a century that the Bill of Rights and the Fourteenth Amendment do not of their own force apply to Indian tribes." *Nevada v. Hicks*, 533 U.S. 353, 383 (2001); (citing, *Talton v. Mayes*, 163 U.S. 376, 382–85 (1896)) (addressing non-applicability of the Fifth Amendment to Indian Tribes). Likewise, although the rights protected under the Civil Rights Act of 1870, (codified at 42 U.S.C. §§ 1985, 1986) extend to private actions, the protected rights are the constitutionally guaranteed civil rights under the U.S. Constitution which do not extend to tribes. *See United Broth. of Carpenters and Joiners of America, Local 610, AFL-CIO v. Scott*, 463 U.S. 825, 829–35 (1983), (citing *Griffin v. Breckenridge*, 403 U.S. 88 (1971)) The matter here centers around qualifications for membership under, and membership rights conferred by, the Comanche Nation Constitution. Moreover, in cases brought under 42 U.S.C. §§ 1985, 1986, the cause of action must be based in some sort of racial animus, *id.*, a factor not alleged or present in this

case. As the Court has recognized, membership in a federally recognized Indian tribe is a political—not a racial—classification. *Morton v. Mancari*, 417 U.S. 535, 551–55 (1974). It is also clear that tribal-membership issues do not trigger invidious class-based discrimination. *See Shortbull v. Looking Elk*, 677 F.2d 645 (1982) (excluding nonmembers from the right to run and vote in tribal election not actionable under 42 U.S.C. § 1985(c)). Accordingly, federal court jurisdiction is not implicated under the Bill of Rights or any of the Civil Rights Acts.

Petitioners also argue that the Citizenship Act of June 2, 1924, 8 U.S.C. § 1401(B), confers federal-court jurisdiction over the present case, with little or no explanation regarding such assertions (Appellant Br. p. 6; Pet'r Pet. pp. 4, 10, 13). The 1924 Citizenship Act established citizenship for Indians who had not already been granted citizenship through other specific laws. Apparently, Petitioners' argument is based on a provision in the Citizenship Act that the granting of citizenship "shall not in any manner impair or otherwise affect the right of such person to tribal or other property." However, this provision was not intended to trigger federal constitutional protections. Instead, it was intended to lessen the controversy among Indians by separating United States citizenship from questions of tribal citizenship and cultural assimilation, following a period in which United States citizenship for Indians had been "conditioned on the severing of tribal ties, renouncing tribal citizenship, and the removal of federal protection." *Cohen's* at 900, § 14.01[3]. "Even though Congress enacted legislation in 1924 making persons born to a member of an Indian tribe nationals and citizens of the Unites States (8 U.S.C. § 1401), that Act did not destroy the existence or sovereignty of the Indian tri-

bes or their jurisdiction over their members." *Tom v. Sutton*, 533 F.2d 1101, 1103 n.1 (9th Cir. 1976); *see also Indian Country, U.S.A., Inc. v. State of Okla. ex. rel. Oklahoma Tax Com.*, 829 F.2d at 980 n.6 (noting that the theory that once the Indians in Oklahoma received United States and state citizenship, the federal government lost its authority to treat them or their lands differently has been rejected by both federal and state courts). Thus, the Citizenship Act neither enlarged federal jurisdiction, nor diminished tribal sovereignty or jurisdiction as related to tribal citizenship or qualification for membership in the Comanche Nation.

CONCLUSION

The Tenth Circuit correctly affirmed the district court dismissal of this action for lack of subject-matter jurisdiction, because the U.S. Constitution, including the Bill of Rights, and the Civil Rights Acts and the Citizenship Act cited by Petitioners do not apply to internal relations of Indian tribes, including the Comanche Nation, and there is no racial or invidious class-based discrimination. There is no split among the circuits as to the proper application of this Court's controlling precedent in *Santa Clara Pueblo*. The principle of stare decisis compels denial of this Petition to avoid disruption of well-settled legal expectations.

Petitioners have not established any compelling reasons to grant the Petition. Therefore, the Writ of Certiorari should be DENIED.

Respectfully submitted,

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Supreme Court, U.S.
FILED
JUL 14 2009
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No. 08 -1306

IN THE SUPREME COURT of the UNITED STATES

Deborah Kay Hendrix, Angie Revell,
Phillip Hendrix III, Phyllis Attocknie,
Petitioners, whom are pro se; (FRCP 8.)

v.

Wallace Coffey, Ronald RedElk, Eddie Mahseet,
Lanny Asepermy, Janice Bigbee, as citizens of
the United States and of Oklahoma, whom are or
were members of Comanche Business Committee,
Donna Wahnee, a Comanche Enrollment clerk,
as a citizen of the United States and the State
of Oklahoma, all individually and together as
well as Kirke Kickingbird of Hobbs, Straus,
Dean & Walker, LLP and their representatives
involved in this case, William Norman, James
Burson, with said law firm and individually,

On Petition for a WRIT OF CERTIORARI to the
United States Court of Appeals for the
Tenth Circuit, No. 08-6161. Before Honorable Kelly,
Portfolio and O'Brien, Circuit Judges.

THIS IS PETITIONERS ANSWER TO RSPONDENTS BRIEF IN OPPOSITION

Petitioners address is:
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PARTIES TO THE PROCEEDING

Pursuant to the Rule 14.1 (b), the following list represents all the parties appearing here and before the United States Court of Appeal for the Tenth Circuit

Petitioners are:

DEBORAH K. HENDRIX, ANGIE REVELL, PHILLIP HENDRIX III, PHYLLIS ATTOCKNIE

Respondents are:

WALLACE COFFEY, RONALD REDELK, EDDIE MAHSEET, LANNY ASEPERMY, individually, as citizens of the United States and State of Oklahoma, and as members of the Comanche Business Committee, JANICE BIGBEE individually, as citizen of the United States and State of Oklahoma and former member of the Business Committee; DONNA WAHNEE, individually, Tribal Enrollment Clerk, as a citizen of the United States and State of Oklahoma, KIRKE KICKINGBIRD; HOBBS, STRAUS, DEAN & WALKER, LLP

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ownership and the benefits expressed under Section 6, for said treaty of Medicine Lodge of 1867, eg, Federal government and internal police thereof applied by Act of June 6, 1900, held constitutional by LoneWolf v. Hitchcock, 187 U. S. 553 (1893). Pg.5

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PETITIONERS RESPONSE TO BRIEF IN OPPOSITION

The proper numbers to said Brief in Opposition should be 08-1306 and petitioners point out respondent Janice Bigbee is not now a member of the Comanche Tribe's Business Committee and respondent Donna Wahnee is not now and has never been a member of said Business Committee but is the federally program paid Enrollment Clerk.

Both women are sued individually as the other defendants each of who have insurance.

THIS IS PRIMARILY A CIVIL RIGHTS CASE over which federal jurisdiction extends under provisions of the Federal Treaty of Medicine Lodge of 1867 and implementing federal laws and constitutional requirements for reason this case, the subject matter, and controversy arises under the United States Constitution and their laws and treaties, which is a part of the Supreme Laws of the United States. The USA is sovereign. The Court has proper adequate jurisdiction and a duty to its citizens regardless of race, color or previous conditions of servitudes to protect their rights, and federal immunities and guarantees to equal protection under the laws, according to what those laws say, as well as to due process, for reason all United States Citizens are in the same boat insofar as the prohibitions against deprivation of another citizen's right can possibly do. That is, there can be no legal infringements, deprivations of any citizens' rights to basic inalienable rights anywhere in the United States of America, or which can be carried on outside the controlling law of the sovereign Supreme Law of the Land. Such seems to be the requirement of the American people, since due process and equal protection under the law contemplates protection of those inalienable rights of citizens to be free of legal

deprivation of the rights provided all citizens equally. That is to say, what is protected to a white or black person must apply to Indians, Hispanics, and others, or else the Thirteenth Amendment cannot afford prohibitions against disparate racial actions at all. This Court has acknowledged that Congress has power to require equality under the laws of the United States, anywhere in America, and this preempts the actions of all government, and officials and employees of all governments. Our federal government deals with in the protection of U. S. Citizens, or others, anywhere in America.

This Court has Jurisdiction of this matter as it is clearly provided. Congress has authority under the Commerce Clause and Treaty making power and authority to enact treaty-implementing laws even in Indian affairs. Their power has been held paramount, supreme and plenary. The Kiowa Comanche and Apache Indians have all been declared to be citizens of the United States by Section 6, of the Allotment Acts of February 8, 1887 (24 Stat. 388), as amended, as applied to the Kiowa, Comanche and Apache (KCA confederated tribes) pursuant to which allottees were to become U. S. Citizens (under sec, 6) and become subject to all the same laws, rights and immunities non-Indian citizens have, with all the protections, rights and immunities as apply to non-Indian citizens as well as state law would apply to allottees and whatever protection it accords to white persons would to the Indians. The original KCA allottees are dead and if remaining alive, they most likely are in the majority that long ago sold their allotments out of trust. The heirs are not allottees although some retain interests in allotted lands. There remains no Indian government interest in allotted lands. The KCA treaty Indians are not the KCA Indians of today. The treaty confederation was rescinded by recall of the treaty-confederated constitution. The 1967

Secretary of the Interior's recognition of a Comanche tribal constitution was for the purposes therein contained and no other. The purposes of the federal Governments administration of the affairs of the KCA Indians with respect to the grant of sovereign rights. KCA tribes once had, or has not been rescinded by Congress, and the rights created there under as well as under the Allotment Acts, for the original allottees and their heirs, including their United States citizenship is all the Comanche Indians of today retain. Those rights, regardless of dicta with reference to powers of Congress over said KCA Indians of America is more or less erroneous. (See: Choate v. Trapp,224 U. S. 665-76, 78 (1912), citing Jones v. Meehan, 175 U. S. 1, (1899) (Fifth Amendment U. S. Constitution case) recognizing the Fifth Amendment applies to rights which are created by allotment acts of congress is largely unrepealable by Congress as such rights are protected against repeal by the Fifth Amendment. Also, see: Antoine v. Washington, 420 U. S. 194, 199-200 (1975) (statute ratifying agreement) (collecting cases). Choate v. Trapp, supra, is the most important case under which all legislation of congress is analyzed.

Canons of interpretation are to the effect that "doubtful expressions are to be resolved in favor of the weak and defenseless people who are wards of the nation, dependent upon the protection and good faith." Carpenter v. Shaw, 290 U.S. 363, 367 (1930), accord Winters v. United States, 207 U. S. 564, 576-77 (1908). A treaty was not a grant of rights to the Indians, but a grant of rights from them a reservation of those not granted. Washington v. Washington State Com. Passenger Fishing Vessel Ass'n, 443 U. S. 658, 680 (1979, accord United States v. Winans, 198 U.S. 371. 381, (1905).

interpreting federal statutes, eg., the Court in County of Oneida v. Oneida Indian Nation, 470 U. S. 226, 247 (1986) said: "The canons of construction applicable in Indian law are rooted in the unique trust relationship between the United States and the Indians."

Petitioners are faced with Santa Clara Pueblo v. Martinez, supra, developed by lawyers that think they need to sacrifice the citizenship rights acquired by the Comanche Indians by simply stating that United States citizenship was only ostensibly provided by Congress and creates no rights to be accorded basic inalienable rights to Comanche Indians, such as due process and equal protection of the laws of the United States, at least in their lives. liberty and property insofar as the tribes go. They say Congress did not mean what it said by enacting the Civil Rights Act of 1866. The 13th Amendment to the U. S. Constitution, however, and Section 2, thereof, gives Congress the power and the authority to make that decision, and this Court has jurisdiction to answer that controversy more clearly than the Court has done. As alleged by respondents, to be "settled law" done by Santa Clara Pueblo v, Martinez, supra, which petitioners claim is a bald lie, which is not sanctioned as truth by the members of the Comanche Tribe, except by a few hoodlums that have been embezzling large sums of money. And the lawyers claim to be representing the Comanche Nation in this matter for they believe Santa Clara Pueblo v. Martinez will be a shield for every crooked unlawful act. It is erroneous to be claimed to be legal under "tribal law" which it certainly is not. That which is illegal under federal criminal or civil rights statutes is illegal.

The truth of the matter is that the KCA tribes ceded their lands and any sovereign rights they had to sell to government to the United States under the Sixth Section of the Treaty of Medicine Lodge for the benefits

then contained in said treaty. The KCA have been collecting.

This action was supplemented by the so-called Jerome Agreement of (1862); Senate Executive Doc. No. 17, 52 Cong., 2nd Sess., Serial Set No. 3055, Vol. 1.4 January (1893). Which was an agreement ceding all KCA tribal lands to the United States for allotments in severalty and individual ownership by allottees and their heirs out of said lands, so ceded, and other provisions of the treaty and said supplemental agreement.

Therefore, the government obtained lands and agreed to provide for by legislation the laws for alienation and descent of the reserved allotments, and to provide the government and laws, for every purpose of government, of KCA Indians and the inner police of the allotted lands. The treaty is still a portion of the Supreme Law of the Land. Regardless of Santa Clara Pueblo v. Martinez and Talton v. Mayes, neither of the decisions, can vitiate against the rights of the KCA Indians. There can be no tribe or government without the KCA Indian citizens of the United States and there have been no tribal further agreements of the KCA tribes, which would condone the application of the two dreaded decisions against their citizenship status. KCA Indians have endorsed federal jurisdiction and have never agreed to abandon the government's protection of the individual allotters and their heirs, but are grateful for the benefits they have received under the agreements and still receive.

They, as a people are preparing to ask the United States for full-fledged investigation into a major problem of embezzlement of tribal resources by the past two administrations of tribal officials, and there are indications their recent installation of a new Tribal Chairman and Tribal Administrator by the General Council, the governing head of the tribe will act... Lawyers are illegally taking the tribe for millions of dollars and have only been able to get away with it so

far, are that the Courts refuse the access to the courts as a threshold measure due to Santa Clara Pueblo v. Martinez, supra. It is an issue.

Certainly, Santa Clara Pueblo V. Martinez is a decision not meant to lessen the advancement of the KCA Indians or their entitlements or Civil Rights, USCA Const. Amend. 13, Civil Rights Act of 1866, 42 USCA 1982, 28 USCA Sec. 1343 (4), together with Treaty of Medicine Lodge of 1867; LoneWolf v. Hitchcock, decided Jan. 5, 1903, 187 U. S. 553, and United States v. Kagama 118 U. S. 375 (b) (1886). LoneWolf proves the assumption of Congressional Good Faith with the KCA Indians and Kagama speaks to criminal matters re: jurisdiction and the need and reasoning behind federal wardship: DOES FEDERAL AUTHORITY EXTEND TO THIS CASE? KAGAMA: "It seems to us that this is within the competency of Congress. Their Indian tribes are the wards of the nation. They are community's dependant on the United States. Dependant largely for their daily food. Dependant for their political rights. They owe no allegiance to the states, and receive from them no protection. Because of local ill feelings, the people of the states where they are found are often their deadliest enemies. From the very weakness and helplessness, so largely due to the course of dealing of the Federal government with them and the treaties, in which it has been promised, there arises the duty of protection and with it the power. This has always been recognized by the executive and by congress, and by this court, whenever the question has arisen [in past cases such as Worcester v. Georgia.

The power of the general government over the remnants of a race, once powerful, and now diminished in numbers, is necessary in their protection, as well as the safety among whom they dwell. It must exist in that government, because it never has existed anywhere else,

because the theater of its exercise is within the geographical limits of the United States, because it never has been denied, and because it alone can enforce its laws upon the tribes.

The brief in opposition to Certiorari should be denied. Petitioners feel like an order for Certiorari should issue as Treaty of Medicine Lodge of 1867 and its provisions has been saddled with the Supreme Court's ruling in Santa Clara Pueblo v. Martinez relied upon here by respondents. That case saddles the KCA with onerous disabilities and burdens which have curtailed their rights to such an extent that their citizenship rights now have no operation. This holds true for many Indian tribes where those hamstrung strung tribes of citizens find their selves in the hands of law violators, violating civil rights statutes and denying Indians due process and equal protection of the laws. There are no remedies left in the tribes against racketeering tribal officials and BIA CFR Courts hold they have no jurisdiction over the culprits or over civil rights, statute laws matters. Tribes like the KCA, tribes have no tribal courts and tribes that have seriously limited jurisdiction. To insure they win election tribal crooks can deny the right to vote hold office and disenfranchise while they steal millions from casino money with the National Indian Gaming Commission claiming it a tribal matter. The Treaty of Medicine Lodge KCA Indians contracted for federal Government and for internal police whom BIA claims they are hampered and hamstrung by Santa Clara Pueblo v. Martinez prolixity, which is now rampant through Indian country. This needs the attention of the federal government in satisfaction of treaty rights to demand basic inalienable rights due. Due process and Equal protection under the law needs to be restored.

Again, the reason Indians cannot expect due process and equal protection of the law is Santa Clara Pueblo v. Martinez barrier. The Court should compare that case

with Shams PARLAVI, aka H.I.H. Princess Shams Pahlavi., A case brought by Bank Melli Iran, an Iranian Bank seeking enforcement of certain judgments (No, 94-555292) decided June 29. 1995, Ct, of Appls, Ninth Cir, 58 F, 3d 1406, 95 Daily Journals D.A.R. 8741. These cases points up that even foreign judgments are not enforced if the party was not likely to be given Due Process and Equal Protection under the law. Santa Clara Pueblo v. Martinez, supra, is regarded as threshold rejection of all Indian cases seeking relief from alleged tribal prosecutions where no due process can exist, no equal protection exists and no tribunals exist, and no form of equal justice is for, like in the present instance, and Section 6, is still alive and kicking, alleged in the Tenth Circuit in Tillett v, Lujan, 931 F 2d 636,640 (1991).

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